

C.M.A(MD)No.631 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 16.04.2026

Pronounced on : 25.06.2026

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A(MD)No.631 of 2024

1.Devi

2.Minor.Amudha

3.Minor.Jeevanantham

4.Nagammal

: Appellants

(Minors 2 and 3 are represented by their mother
and natural guardian 1st petitioner herein)

Vs.

1.N.Saravanan

2.United India Insurance Company Ltd.,
Prominent Road, Cantonment,
Trichy – 620 001.

: Respondents

(Notice to R1 is dispensed with as R1 was
set ex-parte before the Tribunal, vide Court
order, dated 25.06.2024 made in
C.M.A.(MD)No.631 of 2024)



C.M.A(MD)No.631 of 2024

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award passed in M.C.O.P.No.920 of 2018, dated 08.03.2022, on the file of the Motor Accident Claims Tribunal cum Special District Court, Tiruchirappalli, in respect of contributory negligence alone.

For Appellants : Mr.D.Boopal,

For Respondents : Mr.G.Prabu Rajadurai, for R2.

J U D G M E N T

The Civil Miscellaneous Appeal is directed against the award made in M.C.O.P.No.920 of 2018, dated 08.03.2022, on the file of the Motor Accident Claims Tribunal cum Special District Court, Tiruchirappalli.

2. The appellants/claimants, who were awarded with compensation of Rs.31,53,000/- with interest and costs for the death of one Raja, consequent to an occurred on 01.10.2018, challenged the contributory negligence mulcted on the deceased Raja.

3. For the sake of convenience and brevity, the parties herein after will be referred as per their ranking/status before the Tribunal.

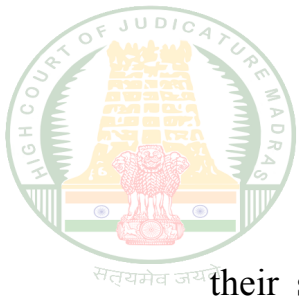


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4. The case of the claimants is that on 01.10.2018, the deceased Raja was riding his TVS XL bearing Reg.No.TN-48-M-2169 on the Pudukkottai to Trichy Road to reach his office at the District Police Office and at that time, a 407 Van bearing Reg.No.TH 45-AQ-8556 TATA 407, which came in a rash and negligent manner, dashed against the two wheeler and as a result, the said Raja was thrown off the vehicle and sustained serious injuries; that he was immediately admitted to the Government Hospital, Trichy, but despite treatment, he succumbed to the injuries and that the accident was occurred only due to the rash and negligent driving of 407 van driver.

5. The defence of the second respondent/insurer is that the accident did not occur in the manner alleged in the claim petition. According to the insurer, on 01.10.2018 at about 10.10 a.m., the TATA 407 Van bearing Registration No. TN-45-AQ-8556 was proceeding from south to north on the western side of the road at a slow speed. When the van reached the point opposite the District Police Office, the deceased Raja, who was riding his two-wheeler on the eastern side of the road, suddenly attempted to cross over to the western side through the gap between the two parapet walls opposite the District Police Office in order to enter the office premises. It is



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their specific case that the deceased, without reducing the speed of his vehicle or giving any signal, abruptly took a turn. On noticing the two-wheeler, the van driver sounded the horn, applied the brakes and swerved the vehicle in an attempt to avoid the collision. However, the deceased neither stopped nor allowed the van to pass and proceeded further, resulting in the accident. Therefore, according to the insurer, the accident occurred solely due to the negligence of the deceased Raja and the van driver was in no way at fault.

6. In order to establish their version regarding the manner of the accident, the claimants examined P.W.3 as an eyewitness to the occurrence. On the other hand, the second respondent/insurer, in support of its defence, examined the driver of the TATA 407 Van, Palraj, as R.W.1.

7. No doubt, P.W.3, the alleged eyewitness, has deposed that the accident occurred in the manner pleaded in the claim petition. On the contrary, R.W.1, the driver of the 407 van, has deposed that the accident took place in the manner set out in the defence of the insurer.



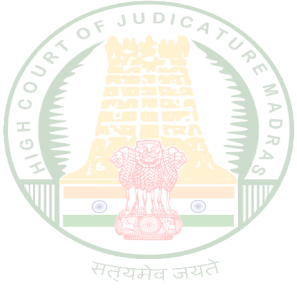
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8. The Tribunal considering the evidence available on record has come to the conclusion that both the deceased and the van driver are responsible for the accident and fixed the contributory negligence on the deceased at 20% and 80% on the van driver and on that basis, directed the insurer to pay compensation of Rs.31,53,000/- with interest and costs to the claimants.

9. No doubt, as rightly pointed out by the learned counsel for the claimants, the Tribunal has, at certain places in its judgment, observed that the accident occurred only due to the rash and negligent driving of the van driver, but finally concluded that the deceased had also contributed to the accident.

10. It is pertinent to note that P.W.3, in his evidence has deposed that the occurrence road is north-south road divided into two portions by a central median. Admittedly, the deceased was employed as a sweeper in the District Police Office, Trichy and at the time of accident, the deceased was only proceeding towards his work place.



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11. P.W.3 as well as R.W.1 have admitted in their evidence that barricades had been placed near the District Police Office. P.W.3 in his cross examination has stated “ சம்பவ இடத்தில் பேரி கார்டு உள்ளது. சம்பவ இடத்தில் பேரி கார்டு இருப்பதால் பொதுவாக வாகனங்கள் மெதுவாகத் தான் வரவேண்டும் என்றால் சரிதான். இறந்துபோனவர் வடக்கிலிருந்து வந்து மேற்கு பக்கம் உள்ள அலுவலகத்திற்கு ரோட்டை கடந்து செல்ல வேண்டும் என்றால் சரிதான். அலுவலகத்திற்கு செல்லும் அந்த ரோடு பேரி கார்டுக்கு முன்னால் 5 அடி தூரத்தில் உள்ளது. சம்பவத்தின் போது வேறு வாகனங்கள் வரவில்லை. 407 வாகனம் புதுக்கோட்டையில் இருந்து திருச்சி நோக்கி வந்து கொண்டிருந்தது. சம்பவ இடத்தில் உள்ள மாவட்ட காவல் கண்காணிப்பாளர் அலுவலகத்திற்கு செல்வதற்காக கிழக்கு பக்க ரோட்டை தாண்டி மேற்கு பக்கம் உள்ள ரோட்டை கடக்க முயன்றபோது தான் சம்பவம் நடைபெற்றது. மேற்கு பக்கம் உள்ள ரோட்டில் பாதி ரோட்டை தாண்டி சென்றபோது தான் விபத்து நடந்தது.

12. Though P.W.3 denied the suggestions put to him in cross-examination that the deceased, without noticing the approaching 407 van, rode his two-wheeler negligently and thereby caused the accident, his



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evidence clearly shows that the deceased was attempting to cross the road through the opening provided in the central median to reach the District Police Office.

13. As already pointed out, R.W.1, the driver of the 407 van, has deposed that while he was proceeding near the District Police Office, the deceased suddenly rode his two-wheeler across the road and dashed against the van, thereby causing the accident. Though R.W.1 reiterated the above version in his chief-examination, he has admitted in his cross-examination:

“ சம்பவ இடம் தேசிய நெடுஞ்சாலை இரு வழி சாலை என்றால் சரிதான். ரோட்டில் பேரிகார்டு போடுவது அந்த இடத்தில் வாகனங்கள் மெதுவாக செல்லவேண்டும் என்பதற்காக போடப்பட்டிருந்தது. நான் ரோட்டின் இடது பக்கமாக வந்து கொண்டிருந்தேன். சம்பவ இடத்தில் சிக்னல் இல்லை. சம்பவ இடத்தில் வாகனங்கள் மெதுவாக செல்லவேண்டும் என்றால் சரிதான். சம்பவ இடத்திற்கு பக்கத்தில் பேரிகார்டு போடப்பட்டிருந்தது என்றால் சரிதான். இறந்துபோன நபர் தான் 407 வேனை கவனிக்காமல் இரு சக்கர வாகனத்தை கவனக்குறைவாக ஓட்டி வந்து விபத்தை ஏற்படுத்திவிட்டார் என்றால் சரியல்ல.



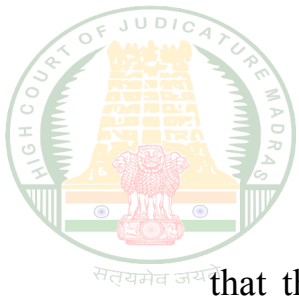
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14. It is pertinent to note that both P.W.3 and R.W.1 have admitted that barricades had been placed near the place of occurrence with a view to regulating and slowing down the movement of vehicles.

15. In view of the above evidence, the contention of the claimants that the driver of the 407 van was driving the vehicle in a rash and negligent manner cannot be accepted, particularly when barricades had been erected near the place of occurrence, requiring vehicles to proceed with caution and at a reduced speed. At the same time, the evidence of P.W. 3 and R.W.1 clearly proves that the deceased also contributed to the occurrence of the accident by attempting to cross the road to reach the District Police Office without ensuring that it was safe to do so. The Tribunal, considering the entire evidence available on record, has rightly held that the deceased was guilty of contributory negligence and has appropriately apportioned the negligence at 20% on the deceased and 80% on the driver of the 407 van and the said finding cannot be found fault with.

16. The appellants/claimants have not challenged the quantum of compensation awarded by the Tribunal. Consequently, this Court concludes

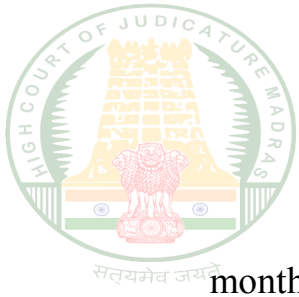


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that the Civil Miscellaneous Appeal is devoid of merits and the same is liable to be dismissed.

17. In the result, the Civil Miscellaneous Appeal is dismissed and award dated 08.03.2022 passed in M.C.O.P.No.920 of 2018 on the file of the Motor Accident Claims Tribunal cum Special District Court, Tiruchirappalli, is confirmed. The second respondent/Insurer is directed to deposit the award amount with interest at 7.5% per annum from the date of petition till the date of realization to the credit of M.C.O.P.No.920 of 2018 on the file of the Motor Accident Claims Tribunal cum Special District Court, Tiruchirappalli, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment and on such deposit, the first and fourth claimants are permitted to withdraw the award amount with interest and costs as apportioned by the Tribunal, less amount already withdrawn, if any, on due application before the Tribunal. The Tribunal is directed to deposit the share amount of the minor claimants in any one of the Nationalized Bank in a fixed deposit scheme, till they attain majority. The first claimant/mother and guardian of the minor claimants is permitted to withdraw the accrued interest once in three



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months directly from the Bank only for the welfare of the minors. Parties are directed to bear their own costs.

25.06.2026

NCC : Yes/No

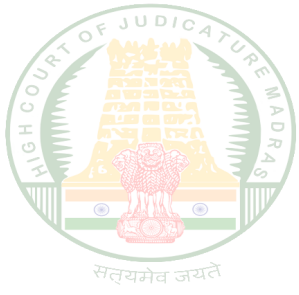
Index : Yes/No

Internet : Yes/No
das

To

1.The Motor Accident Claims Tribunal cum Special District Court,
Tiruchirappalli.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

das

Pre-delivery order made in
C.M.A(MD)No.631 of 2024

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