



CMA(MD)No.946 of 2009

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2022

CORAM:

THE HONOURABLE **MR.JUSTICE A.A.NAKKIRAN**

C.M.A.(MD)No.946 of 2009

and

M.P.(MD)No.2 of 2009

1.The Medical Officer,  
Primary Health Centre,  
Kurukkalpatti.

2.The Deputy Director of Health Service,  
Tirunelveli.

3.The Director of Rural Health Service,  
Chennai.

...Appellants

/vs./

Ayyasamy

... Respondent

**PRAYER:** Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award and decree dated 05.10.2007 made in M.C.O.P.No.567 of 2007 on the file of Motor Accident Claim Tribunal Principal Sub Court, Tirunelveli.

For Appellants : Mr.T.Villavankothai  
Additional Government Pleader  
For Respondent : Mr.V.Kannan



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## **JUDGMENT**

This Civil Miscellaneous Appeal has been filed to set aside the award and decree dated 05.10.2007 made in M.C.O.P.No.567 of 2007 on the file of Motor Accident Claim Tribunal / Fast Track Court No.II, Tirunelveli.

### 2. Brief facts of the case are as follows:

On 17.02.2007, while the claimant, the respondent herein was riding in his bicycle near Kurukkalpatti, in Tirunelveli – Sankarankovil Main Road, a Jeep bearing registration No.TSF 5489, dashed against him, in a rash and negligent manner, even without horn sound, which resulted, the claimant suffered injuries. Hence, the claimant filed MCOP.No.567 of 2007 before the Motor Accident Claim Tribunal / Fast Track Court No.II, Tirunelveli, claiming compensation for a sum of Rs.3,00,000/-. The Tribunal, after considering the oral and documentary evidences and arguments made on either side, came to the conclusion that the driver of the appellants herein is responsible for the accident and the appellants herein are liable to pay compensation for a sum of Rs.1,35,000/- with interest at the rate of 7.5% per annum from the date of filing of the claim petition. Aggrieved by the same, the appellants are before this Court.



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3. The learned counsel appearing for the appellants submitted that the respondent drove the bicycle in the middle of the road in a drunken mood and only he is responsible for the accident. Therefore, there is no fault on the side of the Jeep driver. But, the Tribunal has wrongly come to a conclusion that the negligence is on the part of the Jeep driver and fixed the liability against the appellants.

4. Per contra, the learned counsel appearing for the Respondent argued that the respondent drove the bicycle not in a drunken mood and also the respondent was going on side of the road only and hence, he seeks dismissal of this appeal.

5. A perusal of the Motor Vehicle report shows that the damage is as “Ft.Bumber L/s corner bent (one foot towards rear) at the time of inspection and the damage is not an old one. Therefore, it is clear that the negligence is on the part of the Jeep driver. The learned counsel appearing for the appellants has not proved that the respondent drove the bicycle in a drunken mood. Therefore, the award and decree dated 05.10.2007 made in M.C.O.P.No.567 of 2007 on the file



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of Motor Accident Claim Tribunal / Fast Track Court No.II, Tirunelveli does not warrant any interference and the same is confirmed. Accordingly, this Civil Miscellaneous Appeal is dismissed.

**06.09.2022**

Index : Yes / No  
Internet : Yes / No  
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**TO:**

- 1.The Motor Accident Claim Tribunal Principal Sub Court,  
Tirunelveli.
- 2.VR Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**A.A.NAKKIRAN, J.**

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Judgment made in  
**C.M.A.(MD)No.946 of 2009**

Dated:  
**06.09.2022**