



WEB COPY

CMA No. 832 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-06-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

**CMA No. 832 of 2023
& CMP No. 7760 of 2023**

1. M/s. United India Insurance
Company Limited
No.1170, Muthaiya Complex, Mettur
Road, Erode

Appellant(s)

Vs

1. PADAKALLI
W/o Madevan, O.No.91, N.No.149,
thalakarai, Anthiyur Taluk, Erode
district

2.Madevan
s/o Madaiyan, O.No.91, N.No.149,
thalakarai, Anthiyur Taluk, Erode
district

3.K.Mariappan
s/o Kuppana Gounder, No.3/269,
Oricheripudur post, Bhavani Taluk,
Erode district



4.M.Rameswari
w/o Mariappan, No.3/269,
Oricheripudur post, Bhavani Taluk,
Erode district

Respondent(s)

CMA No. 832 of 2023

PRAYER

to prefer this Memorandum of Civil Miscellaneous Appeal against the award and decree dated 04-08-2021 made in MCOP No.360 of 2017 on the file of the Motor Accidents Claims Tribunal, IV Additional District and Sessions Judge, Bhavani

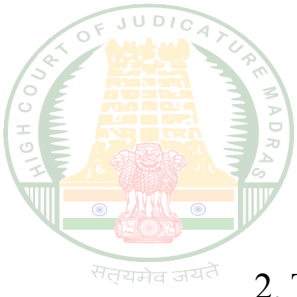
CMA No. 832 of 2023

For Appellant(s): M/s. S. Arunkumar

For Respondent(s): M/s.S.P.Yuaraj- For Rr- R1 And
R2 Rr 3 and 4 - Notice
Dispensed With

JUDGEMENT

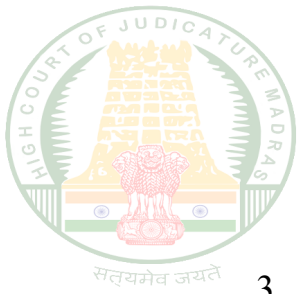
This Civil Miscellaneous Appeal has been filed against the award and decree dated 04-08-2021 made in MCOP No.360 of 2017 on the file of the Motor Accidents Claims Tribunal, IV Additional District and Sessions Judge, Bhavani(in short 'Tribunal').



WEB COPY

2. The brief facts of the case:

On 10.08.2014 at about 8 p.m., the deceased Sivakumar was riding the motor cycle bearing registration number TN 36 S 3903 on the left side of Bhavani to Appakudal Road towards west to east direction and when Sivakumar was nearing Oricheri Gokulam Hospital, at that time the third respondent who driven the lorry bearing registration number TDU 9337 from the opposite direction in a rash and negligent manner with overload of sugar cane and lost the control and hit against the motor cycle and caused the accident. In the said accident, deceased Sivakumar sustained multiple injuries all over the body and immediately he was removed to hospital where he died. Thereafter, the claimants/respondents 1 & 2 herein filed the petition before the tribunal claiming Rs.20,00,000/- as compensation. After considering the oral and documentary evidence the tribunal awarded Rs.15,80,750/- as compensation. Challenging the quantum of Compensation Insurance Company preferred this appeal.

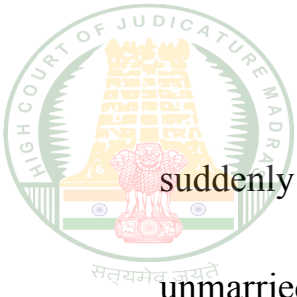


WEB COPY

3. The learned counsel for the appellant submits that at the time of the accident the deceased driven the two wheeler in wrong direction of the road to avoid the accident, the lorry which was came in opposite direction suddenly applied the brake and fall down on the Northern side of the Road with sugar cane load. Therefore, the accident was happened only because of the negligence of the deceased. But the tribunal without considering the said aspect erroneously fixed 50% contributory negligence on the third respondent vehicle. In fact, the Insurance Company is not liable to pay the compensation to support his argument he relied the rough sketch which was marked as Ex.R1.

4. The learned counsel for the respondent herein submits that there are one more sketch available which shows that accident was happened when the deceased driven the vehicle in the middle of the road. But, as rightly pointed out by the learned counsel for the appellant alleged second sketch not been produced before tribunal and same cannot be taken into consideration.

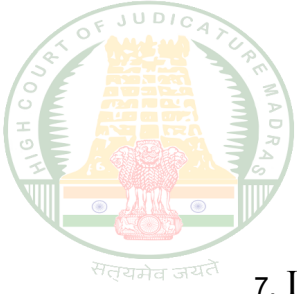
5. On considering the both sides submissions, as per the sketch the deceased was driven his vehicle on the wrong side due to which lorry driver



WEB COPY

suddenly applied the brake and lorry was capsized. Further, the deceased is unmarried and 24 years old at the time of the accident. Hence, as per the sketch there is a negligence on the part of the deceased. This Court is of the view that the tribunal rightly passed the award. In respect of contributory negligence, this Court is inclined to modify the same. Accordingly, this Court fix 60% contributory negligence on the part of the deceased and 40% on the side of the third respondent. In respect of other heads and interest, the award passed by the tribunal is remain unchanged.

6. Accordingly, the claimants/respondents 1 & 2 herein are entitled to a compensation of Rs.12,64,600/- with 7.5% interest per annum from the date of the petition till payment with proportionate cost. The appellant is directed to deposit the said amount in MCOP No. 360 of 2017 on the file of the Motor Accidents Claims Tribunal, IV Additional District and Sessions Judge, Bhavani within a period of eight weeks from the date of receipt of a copy of this judgement and claimants are permitted to withdraw the same as per manner manner known to law.



WEB COPY

7. In the result, this Appeal is disposed of. No Costs. Pending petition(s),
if any, is/are closed.

05-06-2025

pbl

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. M/s. United India Insurance Company Limited
No.1170, Muthaiya Complex, Mettur Road, Erode
2. The Motor Accidents Claims Tribunal, IV Additional District and Sessions
Judge, Bhavani.
3. The Section Officer, V.R. Section, High Court, Madras.



WEB COPY

CMA No. 832 of 2023



T.V.THAMILSELVI J.
pbl

**CMA No. 832 of 2023
& CMP No. 7760 of
2023**

05-06-2025