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CMA No. 1454 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14-08-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1454 of 2025

and

CMP.No.12516 of 2025

1. The Divisional Manager
United India Insurance Company
Ltd,Third Party Service Hub, Plot
No.35,36,37 AR Plaza, 45 Feet Road,
Balaji Nagar Extn, Saram,
Puducherry-605 011

Appellant(s)

Vs

1. Kumar
S/o. Arumugam, Door.No.1, North
Street, Eduthanur, Sankarapuram Taluk,
Villupuram District.

2.Veerammal
W/o. Kumar, Door.No.1, North Street,
Eduthanur, Sankarapuram Taluk,
Villupuram District.

3.Thenaruvi
S/o. Thanga Prakasam, 75, Koottapalli
Housing Board, Tiruchengode Taluk,
Namakkal District.

Respondent(s)

PRAYER

Civil Miscellaneous Appeal filed under Section 173 of MV Act, 1988, prays to set aside the award and decree dated 29.02.2024 made in MCOP No.63 of 2019 on the file of the Motor Accidents Claims Tribunal (Special District Judge) Villupuram.



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For Appellant(s): Mr.D Bhaskaran

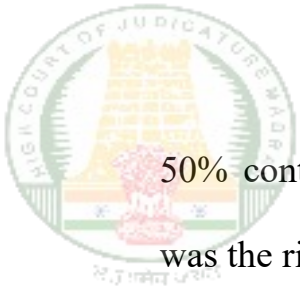
For Respondent(s): Mr.N.Suresh For R1 And R2
R3 - Unclaimed

JUDGEMENT

The appellant has filed this appeal against the award passed in in MCOP No.63 of 2019 on the file of the Motor Accidents Claims Tribunal (Special District Judge) Villupuram, dated 29.02.2024.

2. On considering the oral and documentary evidence, the Tribunal partly allowed the claim petition and awarded a sum of Rs.13,23,980/- as compensation, directing the appellant herein / 2nd respondent to pay the said amount to the claimants, along with interest at the rate of 7.5% per annum from the date of the petition till the date of realization (excluding the period of dismissal for default, if any).

3.The learned counsel for the appellant contended that, at the time of the accident, the deceased was riding a two-wheeler along with three persons. He further submitted that the vehicle was not insured and that the deceased did not possess a valid driving licence. According to the learned counsel, the accident occurred purely due to the negligence of the deceased. However, the Tribunal, without properly considering these aspects, erroneously fixed 70% liability on the insurance company and 30% on the deceased, which, according to the appellant, is erroneous and liable to be set aside. He also submitted that at least



50% contributory negligence ought to have been fixed on the deceased, who was the rider of the two-wheeler at the time of the accident.

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4. Per contra, the learned counsel for the respondents submitted that the deceased was a 21-year-old college student and was riding the two-wheeler along with two others while following the traffic rules. He also contended that there was no negligence on the part of the deceased. However, the Tribunal recorded a finding that there was negligence on the part of the deceased, particularly on the ground that he did not possess a valid driving licence and that three persons were travelling on the two-wheeler. While fixing liability, the Tribunal apportioned 30% contributory negligence on the deceased and 70% on the insurance company/appellant herein, which is now under challenge.

5. The Tribunal fixed the notional income of the deceased at Rs.12,000/- per month, added 40% towards future prospects, and deducted one-half towards personal expenses.

6. Considering the fact that the accident occurred in the year 2018 and that the deceased was a BBA, 2nd year student, the notional income would normally require enhancement, keeping in view the cost of living and other amenities prevailing during the relevant period. However, the negligence on the



part of the deceased, as rightly pointed out by the learned counsel for the appellant, was greater than that of the four-wheeler involved in the accident. In view of the income already fixed by the Tribunal, this Court is not inclined to interfere with the award passed by the Tribunal. Accordingly, the findings of the Tribunal are confirmed.

7. Accordingly, this Civil Miscellaneous appeal is dismissed. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

14-08-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
rri



To

1.Kumar

S/o. Arumugam, Door.No.1, North Street, Eduthanur, Sankarapuram Taluk, Villupuram District.

2.Veerammal

W/o. Kumar, Door.No.1, North Street, Eduthanur, Sankarapuram Taluk, Villupuram District.

3.Thenaruvi

S/o. Thanga Prakasam, 75, Koottapalli Housing Board, Tiruchengode Taluk, Namakkal District.

4.The Motor Accidents Claims Tribunal
(Special District Judge) Villupuram.

5.The Section Officer,
High Court of Madras, Chennai.



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T.V.THAMILSELVI J.
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