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CMA No. 1171 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-06-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1171 of 2023

AND

CMP NO. 11546 OF 2023

The Branch Manager
The National Insurance Co Ltd, First
Floor, No 2A, Thirummankalam North
Street, Tallakulam, Madurai, Tamil
Nadu 625 002. C/o The Divisional
Manager, National Insurance Co.ltd.
Divisional Officer, No.9, Infantry Road,
Near Alankar Theatre, Vellore-632 002

Appellant

Vs

1. JAYAMMA

2.Uma

3.Minor Saranya

Rep by Next Friend and Mother Uma,

4.Umarani

Respondents



PRAYER :- Civil Miscellaneous Appeal filed under Sec. 173 of Motor Vehicles Act, praying to set aside the award made in MCOP No.118 of 2019 dated 16.11.2022 on the file of the Motor Accident Claims Tribunal (Additional District Judge) at Hosur

For Appellant: Mrs.R.Sree Vidhya

For Respondent(s): M/s.P.A.Sudesh Kumar For
RR1 To R3
R-4 - No Appearance

JUDGMENT

The 2nd respondent insurance company has filed the present appeal challenging the Award passed by the Motor Accident Claims Tribunal, Addl. District Judge, Hosur in MCOP No.118 of 2019, dated 16.11.2022.

2.The case of respondents/petitioners 1 to 3 is that on 06.07.2018, when the deceased Raja was returning home by riding his motorcycle bearing Regn. No.KA-51-EK-1805 on the ESI Hopsital-Matham ring road, opposite Manjunatha Layout, Hosur at 02.45 p.m., a car bearing Regn.No.TN-64-H-9987 belong to 1st respondent came in same direction from ESI hospital side at high speed in a rash and negligent manner, hit the petitioner's vehicle and caused the



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accident. Due to which, the deceased was thrown off the vehicle, fell down on the road, sustained injuries to head and other vital organs, for which he underwent treatment in the Government Hospital, Hosur and then to Kauvery Hospital and to Sparsh hospital and died on 07.07.2018. Under these circumstances, the claim petition came to be filed by his legal heirs before the Tribunal seeking for payment of compensation of Rs.25,00,000/-.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the negligence on the part of the 1st respondent. Having rendered such a finding, the Tribunal fixed the total compensation payable at Rs.15,35,730/- under various heads and the same was directed to be paid with interest at the rate of 7.5% per annum. Aggrieved by the quantum of compensation fixed by the Tribunal, the 2nd respondent Insurance Company has preferred the present appeal before this Court.

4.Heard and considered rival submissions made by learned counsel appearing for appellant and learned counsel appearing for respondents 1 to 3 and perused the materials available on record.



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5. The learned counsel for appellant prayed to set aside the award passed by the Tribunal by raising the following grounds :-

- (a) The learned Tribunal has committed a grievous error in fastening liability upon the appellant and the 4th respondent herein when the involvement of 4th respondent's car is very much doubtful.
- (b) The learned Tribunal has failed to appreciate that the driver of the 4th respondent's car was enquired by the police authorities practically two months after the accident and that he was forcibly made to admit the accident by giving a statement Ex.P19. The learned Tribunal ought to have appreciated that Ex.P19 was inadmissible under law.
- (c) The learned tribunal has failed to appreciate that even though the police officers (P.W.3 and R.W.2) had stated in their evidence before the Tribunal that they zeroed upon 4th respondent's car only through CCTV footage, they did not produce those CCTV footages nor furnish any associated details before the Tribunal. In fact, both P.W.3 and R.W.2 were unable to state as to where those CCTV footages were at present. In



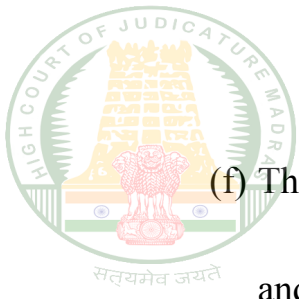
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such circumstances, the learned Tribunal ought not to have given any credence to that statements regarding identification of vehicle.

(d) The learned Tribunal has failed to appreciate one more material aspect.

Whereas the P.W.3 had stated in his evidence that the driver of 4th respondent's car was confronted and apprehended by the police authorities on 11.09.2010 at about 8.00 p.m. and that the said driver surrendered before the police along with his vehicle on the next day, the M.V.I. Report for the subject car (Ex.P18) mentions that the said car was produced for inspection by police on 10.09.2018 itself. This material discrepancy makes it obvious that the entire evidence regarding 4th respondent's car in the subject accident was fabricated and false. The learned Tribunal has lost sights of this material discrepancy.

(e) The learned Tribunal ought to have appreciated the fact that in the facts and circumstances of the case the averment that 4th respondent's car was involved in the subject accident was false and that 4th respondent's car was falsely implicated in the case only for getting compensation.



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(f) The learned Tribunal ought to have therefore held that the 4th respondent and the appellants are not liable to pay compensation in this matter and might to have therefore dismissed the compensation application.

6. Submitting the above grounds, the learned counsel for appellant argues that the vehicle belong to 4th respondent was not involved in the said accident. But, to make a false claim, the respondents 1 to 3/claimants gave belated F.I.R., however the same was not properly appreciated by the learned Tribunal, besides rider of the two wheeler was not having valid license and other aspects with regard to damages to the vehicle has also not been properly appreciated. Therefore, he prayed to set aside the award passed by the tribunal.

7. The learned counsel for respondents/petitioners 1 to 3 would submit that before the tribunal, they have adduced oral and documentary evidence to prove the manner of accident and by relying eye-witness as well as document, the learned Judge has rightly fixed the negligence on the part of driver of car belongs to 4th respondent herein. Further, he would also pointed out that at the time of accident, car was driven by one Krishnakumar, who is son-in-law of 4th respondent in a rash and negligent manner in the same direction, wherein the



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deceased Raj was riding his two wheeler at the time of accident. Due to sudden hit, from the two wheeler the deceased Raja was fell down and sustained grievous injuries and died. Thereafter, his brother-in-law gave a complaint immediately by identifying colour of car by relying CCTV footage and the police has found that a car belong to 4th respondent is involved in the accident. The 4th respondent, owner of car denied the manner of accident, but as rightly pointed out by the learned counsel for respondents/petitioners 1 to 3 that Krishnakumar, who driven the vehicle at the time of accident was not entered into witness box. Furthermore, mother-in-law, who is owner of a car was examined as R.W.1. Admittedly, she was not present on the date of accident. So, she has no direct knowledge about the accident, which was rightly observed by the tribunal. Further, the learned counsel for appellant argues that if at all, the car belongs to 4th respondent was involved in the accident and caused, the damages to the vehicle is also to be considered, but as per the M.V.Report, car had sustained damages on the left side, which shows that the car was not involved in the said accident. But, admittedly, as per the M.V.report, car was sustained damages on the left rear side body of car and the two wheeler, which



was driven by the deceased Raja got damaged on the front right side body.

Therefore, the tribunal has rightly considered that the damages sustained to the

two wheeler with the petitioner's case, thereby the car has hit the two wheeler

and the accident was happened. Though the appellant insurance company

denied the manner of accident, they disproved the same. They ought to have

examined driver of car, but no steps was taken on their side. Therefore, there is

no contradictory evidence on the side of appellant insurance company as well as

owner of car to disprove the manner of accident. Considering the evidence on

record, the trial judge has rightly analysed and fixed the liability on the 1st

respondent. Since the 1st respondent vehicle was insured with the appellant/2nd

respondent Insurance Company, they are directed to pay the compensation.

Furthermore, the tribunal has rightly fixed 20% contributory negligence on the

part of deceased. Therefore, the award passed by the tribunal needs no

interference and the award passed by the tribunal in M.C.O.P. No. 118 of 2019

is confirmed. The appellant insurance company is directed to deposit the

compensation, less the amount already deposited, together with interest at 7.5%

p.a. from the date of claim petition till the date of deposit within a period of



eight weeks from the date of receipt of copy of this judgment. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

12-06-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Motor Accident Claims Tribunal, Addl. District Judge, Hosur.
2. Section Officer, VR Section, Madras High Court.



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T.V.THAMILSELVI J.

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