



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23-06-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A. No.2325 of 2021

AND C.M.P. No.13037 of 2021

M/s.United India Insurance Co. Ltd.,
Motor Third Party Claims, No.826,
Anna Salai, 7th Floor, Tarapore Towers,
Chennai - 600 002.

Appellant(s)

Vs

1. Mahalakshmi

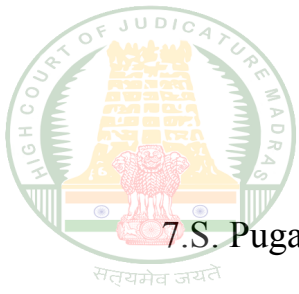
2.M. Mohan,

3.Tata AIG Insurance Co. Ltd.,
2nd Floor, Samson Towers,
Pantheon Road,
Egmore,
Chennai - 600 008.

4.V. Senthil,

5.C. Vasanthi,

6.The New India Assurance Co. Ltd.,
Third Party Claims Office, No.232,
NSC Bose Road,
6th Floor,
Chennai - 600 001.



7.S. Pugazhendhi,

8.Natiional Insurance Co. Ltd.,
The Manager, Third Party Claims,
Office, No.46, Regina Mansion,
3rd Floor, Moore Street,
Chennai - 1.

Respondent(s)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and Decree dated 07.02.2020 made in M.C.O.P.No.7887 of 2017 on the file of the learned Chief Judge, Motor Accident Claims Tribunal, Court of Small Causes, Chennai.

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

For Respondent(s): M/s.S.R.Suga for R1

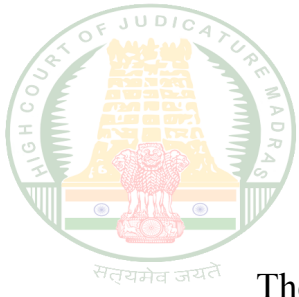
Mrs.C.Harini
for M/s.M.B.Gopalan Associates
for R3

Mr.D.Bhaskaran for R8

Mr.M.Krishnamoorthy for R6

R5- No Appearance

R2, 4 and 7 - Dispensed With

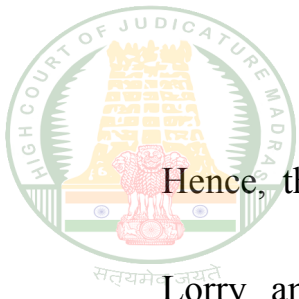


ORDER

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The above Civil Miscellaneous Appeal arises against the Award and Decree dated 07.02.2020 made in M.C.O.P.No.7887 of 2017 on the file of the learned Chief Judge, Motor Accident Claims Tribunal, Court of Small Causes, Chennai.

2.The petitioner Magalakshmi filed a claim petition claiming Rs.10,00,000/- for injuries sustained in a motor accident on 21.08.2015. She was a passenger in Tata Indica Car bearing Reg.No. TN07-BJ-0570 traveling on GST Road, Urapakkam. Four vehicles, namely, Tata Indica Car, Tavera Car bearing Reg.No.TN 19-V-7972, Ashok Leyland Lorry bearing Reg.No.TN28-AF-1486 and Container Lorry bearing Reg.No.TN88-A-5874 have been involved in the accident. The petitioner claimed rash and negligent driving of the Ashok Leyland Lorry and Tavera Car caused her injuries, resulting in 15% permanent disability. The Tribunal observed that accident was a chain reaction involving multiple vehicles. The petitioner was traveling carefully and the accident caused by vehicles behind (Ashok Leyland Lorry and Tavera Car).



Hence, the Tribunal initially apportioned liability of 25% on Ashok Leyland

Lorry and 75% on Tavera Car, and awarded Rs.1,16,450/- with 7.5% interest

and the respondents 5 to 8 were dismissed.

3.The learned counsel for the appellant/Insurance Company submitted that the Tribunal erred in fixing 75% liability on Tavera Car, insured with the United India Insurance Company. Further, First Information Report shows only Ashok Leyland Lorry was negligent and the driver of the Tavera Car was not proven negligent. The Tribunal relied on conjecture, ignoring *res ipsa loquitur* principle and the accident chain resulted from lorry hitting Indica Car from behind. Further, he contended that the appellant requested liability be reduced or dismissed entirely.

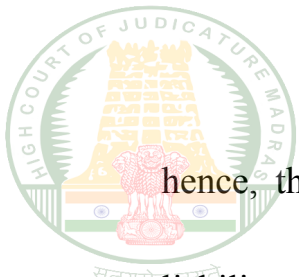
4.The learned counsel for the Appellant / TATA AIG Insurance Company, who is the insurer of Ashok Leyland Lorry bearing Reg.No.TN28-AF-1486, submitted that the liability arises solely due to sudden movement of Tavera Car and Indica Car stopping, which led to chain reaction. The Tribunal misapplied



liability principles by fixing only 25% to the lorry, despite evidence that lorry's high speed and rash driving were primary cause. He contended that all vehicles in sequence contributed, including Tata Indica, and liability should reflect relative negligence. He further submitted that the compensation awarded is reasonable, but apportionment needs equitable adjustment, given the primary role of the lorry driver.

5.The learned counsel for the claimant submitted that both Ashok Leyland Lorry bearing Reg.No.TN28-AF-1486 (TATA AIG) and Tavera Car bearing RE.No.TN19-V-7972 (United India) contributed to the accident. The petitioner's Indica Car stopped carefully and she is innocent in accident chain. The Tribunal rightly apportioned the liability.

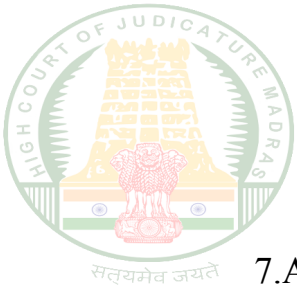
6.On a careful consideration of the oral and documentary evidence made on either side, First Information Report confirms lorry bearing TN28-AF-1486 hit Indica Car from behind. At that time, Tavera Car crossed GST Road suddenly from the side road and Indica Car stopped to avoid collision and



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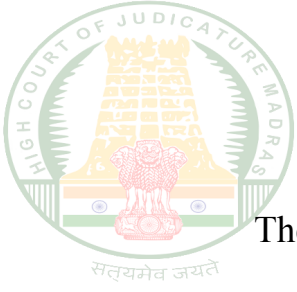
hence, the chain reaction occurred. The Tribunal initially apportioned 25% liability to lorry (TATA AIG) and 75% to Tavera Car (United India Insurance Company). The appellant/United India Insurance argued that there is a lack of evidence against Tavera Car. The 3rd respondent/TATA AIG Insurance argued that the lorry was main cause to the accident. Considering the evidence of PW1 and PW2, this Court concludes both vehicles contributed equally to the accident and the liability is revised 50:50 between Ashok Leyland Lorry bearing Reg.No.TN28-AF-1486 (TATA AIG Insurance Company) and Tavera Car bearing Reg.No.TN19-V-7972 (United India Insurance Company). In all other respects, the Award remains unaltered. Therefore, taking into consideration the above aspects, the modified amount is as follows:

<u>Head of Compensation</u>	<u>Amount (Rs.)</u>
Medical Expenses	-1,450/-
Transportation Charges	-10,000/-
Extra Nourishment	-10,000/-
Permanent Disability 15%	-45,000/-
Pain and Sufferings	-30,000/-
Loss of Earnings for 2 months	-20,000/-
Total	-Rs.1,16,450/-



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7. Accordingly, this Civil Miscellaneous Appeal is partly allowed fixing the liability for compensation 50:50 between Ashok Leyland Lorry TN28-AF-1486 (insured with TATA AIG) and Tavera Car bearing Reg.No.TN19-V-7972 insured with United India Insurance. The claim against the respondents 5 to 8 remains dismissed. The excess amount deposited is permitted to withdraw by the appellant/Insurance Company. The 3rd respondent/Insurance Company is directed to deposit 50% of compensation amount with interest @7.5% per annum, less the amount already deposited, with proportionate accrued interest and costs, to the credit of M.C.O.P.No.7887 of 2017 on the file of the learned Chief Judge, Motor Accident Claims Tribunal, Court of Small Causes, Chennai, within a period of six weeks from the date of receipt of a copy of this Judgment, if not deposited earlier. The claimant is not entitled to get interest for the default period. On such deposit, the claimant is permitted to withdraw the entire award amount with proportionate accrued interest and costs, by making necessary applications.



The claimant is directed to pay the Court fee for the compensation amount, if required. The Tribunal below shall not disburse the amount till such time as proof of payment of Court Fee has been produced by the claimant. No costs. Consequently, connected Miscellaneous Petition is closed.

23-06-2025

mps

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The Chief Judge,
Motor Accident Claims Tribunal,
Court of Small Causes,
Chennai.

2. The Section Officer,
VR Section,
Madras High Court.



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T.V.THAMILSELVI J.

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