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CMA No. 1129 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 01-07-2025**

CORAM

**THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI**

**CMA No. 1129 of 2023**

1. S.S.Naveen

S/O. Selvaraju, residing at d.No.19A,  
Mahadevapuram Street No.2, Velur  
Main Road, Tiruchengode Taluk,  
Namakkal District. Now residing at  
New Edappadi Road, Sankari Taluk,  
Salem District.

Appellant(s)

Vs

1. THANGAVELU

S/O. Kuppanagounder, residing at  
D.NO.3/15, Aariyur Post, Namakkal  
District.

2.The Oriental Insurance Co.Ltd  
90A, Duraiyur Road, Namakkal -  
637002.

Respondent(s)



**CMA No. 1129 of 2023**

**PRAYER**

to allow the above civil miscellaneous appeal and enhance the award in the decree and judgment dated 04.12.2019 made in MCOP No.146 of 2011 on the file of the Motor Accident Claims Tribunal/Subordinate Judge Court, Sankari

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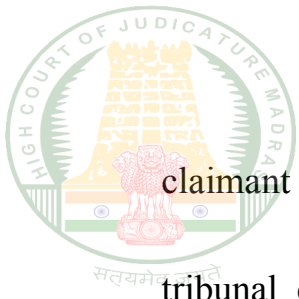
For Appellant(s): C.Paraneedharan

For Respondent(s): Mr.J.Vijaya Raghavan For R2

**JUDGEMENT**

This Civil Miscellaneous Appeal has been filed to enhance the award in the decree and judgment dated 04.12.2019 made in MCOP No.146 of 2011 on the file of the Motor Accident Claims Tribunal/Subordinate Judge Court, Sankari.

2. On 01.01.2011 at about 12.05 a.m., when the claimant as a pillion rider was going in the two wheeler bearing registration No. TN 34 H 1342 in Tiruchengode – Velur main road near Arasan Electronics, CHB Colony, at that time the two wheeler bearing registration No. TN 28 D 8457, driven the vehicle in a rash and negligent manner hit against the claimant, due to which the

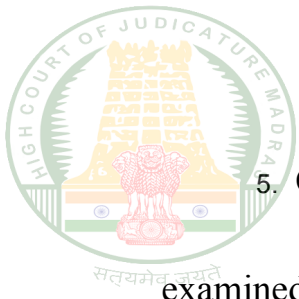


claimant sustained injuries. Thereafter, the claimant filed the petition before the tribunal claiming compensation. The second respondent Insurance company contested the case by filing Counter. After considering the oral and documentary evidence, the tribunal awarded the compensation. Challenging the award passed by the tribunal the appellant filed this appeal.

3. The learned counsel for the appellant submits that without any material evidence the tribunal has fixed 30% liability upon the rider of two wheeler as such is erroneous liable to be set aside. Further, he submits that the claimant was travelling as pillion rider in the two wheeler bearing registration No. TN 34 H 1342, which driven by its driver with careful manner at the time of the accident, but without any material evidence fixed 30% liability upon the appellant. Hence, he filed this appeal.

1. The learned counsel for the respondent submits that the insurance company rightly fixed compensation which needs no interference.

2.



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5. On perusal of the records, it reveal that rider of the two wheeler examined as P.W.2 but not examined offending vehicle's rider, nor any evidence produced on the side of the respondent to establish that accident was happened due to the negligence of the rider of the two wheeler where the claimant was travelled as pillion rider. The tribunal pointed out that rider of the two wheeler examined as P.W.2 but he has not been cross examined, without any material evidence the tribunal has fixed 30% liability upon the appellant as such is erroneous and liable to be set aside. As discussed above, the tribunal has erroneously fixed 30% liability upon the appellant. Therefore, the second respondent is liable to pay the entire compensation. Except above modification, the award passed by the tribunal remain unchanged.

6. The second respondent is directed to deposit the entire award passed by the tribunal together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, to the credit of MCOP No.146 of 2011 on the file of the Motor Accident Claims Tribunal/Subordinate Judge Court, Sankari, within a period eight weeks from the date of receipt of a copy of this judgement. On such deposit, the appellant/claimant is permitted to withdraw the



award amount by making formal application before the Tribunal. The respondent may deduct the amount, if any amount has already deposited before the tribunal.

7. With the above direction, the Civil Miscellaneous Appeal is partly allowed. No costs.

**01-07-2025**

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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To

1.THANGAVELU

S/O. Kuppannagounder, residing at  
D.NO.3/15, Aariyur Post, Namakkal  
District.

2.The Oriental Insurance Co.Ltd  
90A, Duraiyur Road, Namakkal –  
637002.

3. The Section Officer, V.R Section,  
High Court, Madras.

4. The Motor Accident Claims  
Tribunal/Subordinate Judge Court,  
Sankari



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**T.V.THAMILSELVI J.**  
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