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C.M.A.No.1368 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE P.DHANABAL

C.M.A.No.1368 of 2025

and

C.M.P.No.11697 of 2025

The Branch Manager,
The New India Assurance Company Ltd.,
Byepass Road,
Dharmapuri Taluk and District.
(Insurer of the Truck TN93 5276) ... Appellant / 2nd Respondent.

vs.

1. Vijaya W/o. Perumal
2. Minor Vallarasu S/o. Perumal
3. Minor Paramesh S/o.Perumal
4. Chandra W/o. Ramappan ... 1 to 4 Respondents / Petitioners

5. Ambika W/o.Naveen .. 5th Respondent / 1st Respondent

6. The Branch Manager,
The Oriental Insurance Company Limited,
Door No.3L, Sidhdhi Veerappa Chetti Street,
Dharmapuri Town, Taluk & District.
(Insurer of the Mini Truck TN29 Q 3892) ... 6th Respondent /
3rd Respondent



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PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the Award dated 27.09.2023 in M.C.O.P. No.358 of 2018 passed by the Motor Accident Claims Tribunal, Dharmapuri and to dismiss the same.

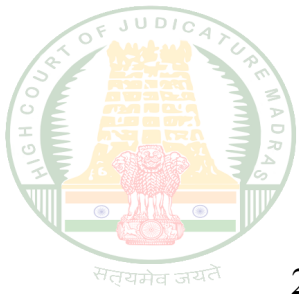
For Appellant : Mr. C. Ramesh Babu

For Respondents : Mr.D. Ramesh Kumar [for R1 to 4]

JUDGMENT

(Judgment of the Court was made by P.DHANABAL,J.)

This Civil Miscellaneous appeal has been preferred as against the fair and decreetal order passed by the Motor Accident Claims Tribunal, Dharmapuri in M.C.O.P. No.358 of 2018 Court dated 27.09.2023, wherein the respondents 1 to 4 herein have filed a petition together claiming compensation of Rs.30 lakhs for the death of one Perumal and the same was partly allowed by awarding compensation of Rs.26,28,200/- with interest at the rate of 7.5% per annum from the date of petition till the date of deposit of the amount. Aggrieved by the said Award, the present appeal has been preferred by the appellant / 2nd respondent Insurance company.



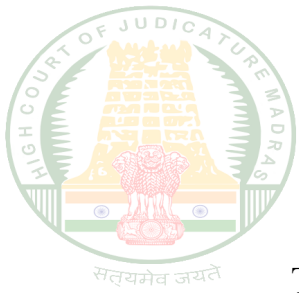
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2. The case of the Claimants before the Tribunal is as follows:-

The deceased Perumal is the husband of the 1st claimant and father of 2 and 3 claimants. The 4th claimant is the mother of the deceased Perumal. On 16.03.2018, when the deceased was proceeding in his two wheeler bearing Registration No.TN29-AL-7539 from Vellichandai to Palacode, at about 8.30 p.m., near Durga Temple, Thimmampatty, a truck bearing Registration No.TN93 5276 came behind the two wheeler. At that time, a Mini Truck bearing Registration No.TN29-AQ-3892 came from the opposite side in a rash and negligent manner, hit against the Truck, in turn, the Truck dashed against the two wheeler. Due to which, the deceased Perumal sustained injuries and died on the spot. The deceased was doing coriander leaf and greens wholesale business and earned Rs.30,000/- per month. The accident was occurred due to the negligence on the part of the Mini Truck, coming in the opposite side and therefore, the claimants 1 to 4 claimed a sum of Rs.30 lakhs as compensation from the insurance company of the Mini Truck, which caused accident.

3. The case of the 1st respondent / owner of the Truck before the Tribunal is as follows:-



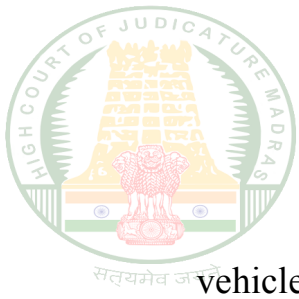
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The 1st respondent denied the date, time, place, manner and the cause of the alleged accident. The accident was occurred only due to the rash and negligent driving of the driver of the Truck which came in the back side of the deceased. The driver of the Mini Truck, which came from the opposite side of the deceased two wheeler, drove the vehicle in a slow speed and in a careful manner by observing all the Road rules, whereas the driver of the Truck came in the back side of the two wheeler, drove the vehicle in a rash and negligent manner, thereby the accident was occurred. Therefore, the negligence is on the part of the driver of the truck. Therefore, the claim against the 1st respondent is liable to be dismissed.

4. The case of the 2nd respondent / Insurer of the Truck before the Tribunal is as follows:-

The 2nd respondent denied the date, time, place, manner and the cause of the alleged accident. The accident was occurred only due to the rash and negligent driving of the driver of the Truck which came from the back side of the deceased. The driver of the Mini Truck, which came from the opposite side of the deceased two wheeler, drove the vehicle in a slow speed and in a careful manner by observing all the Road rules, whereas the driver of the Truck came in the back side of the two wheeler, drove the



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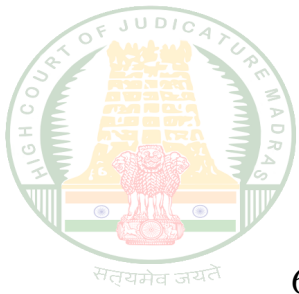
vehicle in a rash and negligent manner, thereby the accident was occurred.

Therefore, the negligence is on the part of the driver of the truck. The appellant is the insurer of the Mini Truck, the 1st respondent's vehicle.

Therefore, the claim against the 2nd respondent is liable to be dismissed.

5. The case of the Insurer of the Mini Truck before the Tribunal are as follows:-

The 3rd respondent denied the date, time, place, manner and the cause of the alleged accident. The accident was occurred only due to the rash and negligent driving of the driver of the Mini Truck which came from the opposite side of the deceased. The driver of the Truck, which came from the back side of the deceased two wheeler, drove the vehicle in a slow speed and in a careful manner by observing all the Road rules, whereas the Mini Truck came from the opposite side of the two wheeler, drove the vehicle in a rash and negligent manner, thereby the accident was occurred. Therefore, the negligence is on the part of the driver of the Mini truck. The 3rd respondent, as the insurer of the Truck, is only a formal party. Therefore, the claim against the 3rd respondent is liable to be dismissed.

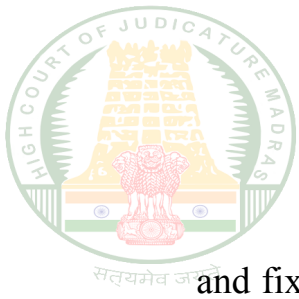


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6. Before the Tribunal, on the side of claimaints, they have examined PW1 and PW2 and marked Ex.P.1 to Ex.P.14. On the side of the respondents, RW1 to RW3 were examined and Ex.R.1 to Ex.R.6 were marked. The Tribunal, after analysing both sides' oral and documentary evidences, fixed the liability as against the driver of the Mini Truck which was insured with the appellant / 2nd respondent and exonerated the 6th respondent / 3rd respondent from the liability and awarded compensation for a sum of Rs.26,28,200/- with cost and interest @ 7.5% per annum from the date of petition till the date of deposit of amount. Aggrieved over the said order, the Insurance Company of the vehicle Mini Truck came from the opposite side of the two wheeler, has preferred this appeal on the point of 'negligence'.

7. The learned counsel appearing for the appellant fairly conceded that already in a connected case, arising out of same accident, the Tribunal fixed the liability against the present Insurance company herein namely The New India Assurance Company Ltd., and the same was challenged through an appeal before this Court in ***C.M.A. No.1318 of 2023 and 982 of 2022***, wherein this Court confirmed the order passed by the Tribunal



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and fixed the liability as against the driver of the Mini Truck vehicle came from the opposite side of the two wheeler which insured with this insurance company.

8. This Court perused the records and on a perusal of records, they revealed that the matter was already decided by this Court and covered by the judgment of this Court in ***C.M.A. No.1318 of 2023 and 982 of 2022 dated 28.06.2023***. Since this appeal is only on the point of 'negligence' and the same was already covered by the judgment of this Court in C.M.A. No.1318 of 2023 and 982 of 2022 and this appeal is also arising out of the same accident in terms of the above appeal, this appeal is liable to be dismissed.

9. Therefore, in view of the above discussions, this Court is of the opinion that this Civil Miscellaneous appeal deserves to be dismissed and accordingly, the Civil Miscellaneous appeal is dismissed. No costs. The connected miscellaneous petition is closed.

(R.S.K.J.) & (P.D.B.J)



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Internet : Yes

Index: Yes/No

Neutral Citation: Yes/No

To

1. The Motor Accident Claims Tribunal,
Dharmapuri.

2. The Branch Manager,
The Oriental Insurance Company Limited,
Door No.3L, Sidhdhi Veerappa Chetti Street,
Dharmapuri Town, Taluk & District.

R. SURESH KUMAR,J

and

P.DHANABAL,J

(mjs)

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