



WEB COPY

CMA No. 1430 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-07-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1430 of 2025

1. The Divisional Manager National
Insurance Company Ltd
No 111, Nehru Street ,Pondicherry.

Appellant(s)

Vs

1. Mr.Sakthivel
S/o. Rajaram, Mariyamman Koil Street,
Sorathur Village, Thaiyur Post, Gingee
Taluk, Villupuram District, Tamil
Nadu-604 205

2.Savitha
No 156/156 Karai Road Street
Ottampattu Village Gingee Taluk
Villupuram Tamil Nadu.

Respondent(s)

PRAYER

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, prays to set aside the order dated 27-03-2024 of the learned Motor Vehicle Accident Claims Tribunal Cum Subordinate Court, Gingee, made in MCOP.No.703 of 2017.

For Appellant(s): Mr.C.Johnson

For Respondent(s): Mr. M.Santhanaraman For R1



ORDER

The appellant has filed this appeal to set aside the order dated 27.03.2024, passed by the learned Motor Vehicle Accident Claims Tribunal Cum Subordinate Court, Gingee, made in MCOP.No.703 of 2017.

2. Challenging the award passed and the liability fixed by the Tribunal, the appellant / insurance company / second respondent has preferred this appeal.

3. The learned counsel for the appellant contended that the vehicle said to be involved in the accident, a two-wheeler bearing Registration No. TN-16Y 0301, was in fact not involved in the said accident. It is submitted that the injured was actually hit by an unknown vehicle, and subsequently, the vehicle belonging to the second respondent was falsely included in the F.I.R. to make a wrongful claim. Further, the learned counsel submitted that the F.I.R. was later closed after investigation, as the police found that the vehicle in question was not involved in the occurrence. The police officials were also examined on the side of the appellant, but their evidence was not properly appreciated by the Tribunal, which erroneously fixed the liability on the appellant. Therefore, the award passed by the Tribunal is illegal and liable to be set aside.

4. The learned counsel for the first respondent submitted that immediately after the accident, the injured was not in a position to give a complaint. The



F.I.R. was lodged after four days, mentioning the registration number of the offending vehicle, and the eyewitness to the occurrence was also examined. The R.C.S. report filed by the police was not supported by proper records. Hence, the Tribunal rightly ignored the same and awarded compensation, which requires no interference. Therefore, he prayed for dismissal of the appeal as being devoid of merit.

5. On consideration of the submissions made by both sides and on perusal of the records, it is seen that the accident occurred in the year 2017. At that time, the first respondent was riding a two-wheeler when he was hit by another two-wheeler bearing Registration No. TN-16 Y0301, belonging to the second respondent, Savitha. The rider of the said vehicle drove it in a rash and negligent manner, causing the first respondent to sustain grievous injuries. He became unconscious and was admitted to the hospital. Subsequently, his wife lodged a complaint, and the F.I.R. was registered. The learned counsel for the appellant contended that the complaint was lodged after a delay of four days without sufficient explanation, and therefore, it appears that the vehicle belonging to the second respondent was subsequently included. It was argued that the injuries were actually caused by an unknown vehicle.

6. In support of this contention, reliance was placed on the evidence of RW2, the police official, whose deposition is found at page 95 of the record.



However, during cross-examination, RW2 admitted that his evidence was based only on the available records and that apart from the F.I.R. and the final report, other documents, including witness statements, were not available. Therefore, the Tribunal rightly disregarded the evidence of RW2.

7. On the other hand, the claimant examined PW2, an eyewitness to the occurrence, who deposed that at the time of the accident, the vehicle belonging to the second respondent was driven in a rash and negligent manner and hit the injured/claimant, causing grievous injuries. Immediately after the accident, the injured was admitted to the hospital. The Accident Register (Exhibit P3) confirms that he took treatment at JIPMER Hospital for about 15 days.

8. It is a well-settled proposition that the closure of the criminal case will not have any bearing on the claim proceedings, as both are distinct in nature. The claimant is required to establish the claim by adducing oral and documentary evidence, which has been done in this case. The eyewitness evidence clearly proves the involvement of the appellant's vehicle in the accident. Admittedly, the said vehicle was insured with the appellant at the time of the occurrence.

9. Hence, the Tribunal rightly appreciated the evidence and awarded just compensation, which calls for no interference. Accordingly, the Civil



Miscellaneous appeal is dismissed as being devoid of merits. The order of “pay and recovery” passed by the Tribunal is also confirmed. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

10. The appellant, the Divisional Manager National Insurance Company Ltd., Puducherry, is directed to deposit the compensation amount, awarded by the Tribunal i.e., Rs.83,000/- (after deducting the amount already deposited), together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of realization, to the credit of M.C.O.P. No.703 of 2017 on the file of the Motor Vehicle Accident Claims Tribunal Cum Subordinate Court, Gingee, within a period of eight weeks from the date of receipt or uploading of a copy of this order. On such deposit being made by the appellant, the claimant / 1st respondent is at liberty to withdraw the same, in the manner known to the law.

25-07-2025

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



To

1. Mr. Sakthivel

S/o. Rajaram, Mariyamman Koil Street,
Sorathur Village, Thaiyur Post, Gingee
Taluk, Villupuram District, Tamil
Nadu-604 205

2. Savitha

No 156/156 Karai Road Street
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3. The Motor Vehicle Accident Claims
Tribunal Cum Subordinate Court,
Gingee.



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