



WEB COPY

CMA No. 1340 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 03-06-2025**

CORAM

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

**CMA No. 1340 of 2025**

**AND**

**CMP NO. 11394 OF 2025**

1. The Manager

New India Assurance Co.Ltd., Vellore  
632 001.

Appellant(s)

Vs

1. A. Vijayarangam

S/o. Annamalai, No.187, MC Road,  
Kandaneri, Anaicut, Vellore Dt 632  
101.

2.V. Thilagavathi

W/o. Vijayarangam, No.187, MC Road,  
Kandaneri, Anaicut, Vellore Dt 632  
101.

3.Dhanapathi

S/o. Mahendiran, No.1, Porkodi  
Amman Kovil St, Vallandaramam,  
Vellore, 632 104.

Respondent(s)



**CMA No. 1340 of 2025**

**PRAYER**

To set aside the Order dated 05.04.2024 of the learned Motor Vehicle Accidents Claims Tribunal, Cum I Additional District and Sessions Court, Vellore, passed in MCOP No.375 of 2019 and allow this CMA.

**CMA No. 1340 of 2025**

For Appellant(s): C.Johnson

For Respondent(s): M/s. J. Pradeep For Rr1 And 2  
R3 - Dispense With

**ORDER**

This Civil Miscellaneous appeal has been filed to set aside the Order dated 05.04.2024 of the learned Motor Vehicle Accidents Claims Tribunal, Cum I Additional District and Sessions Court, Vellore, passed in MCOP No.375 of 2019.

2. The learned counsel for the petitioner submits that the tribunal has failed to consider the vital aspect of the matter that the deceased rider of the motor bike bearing registration No. TN23BQ3808 was solely responsible for the accident and he himself rode the bike negligently and dashed behind a Lorry bearing registration No. TN23AE5679, stationed with parking indicators, on the service road, resulting his death. Thus the deceased himself invited accident



and hence the appellant/second respondent insurance company cannot be held liable to pay compensation under Motor Vehicle Act, as the deceased himself was the tortfeasor.

3. Further, he submitted that FIR bearing No. 139/2018, followed by final report, make it clear that the accident occurred only due to the rash and negligent riding of the motor bike bearing registration No. TN23 BQ 3808, as the lorry was parked very much on the left side of service road and as such the owner of the lorry bearing Registration No. TN23 AE 5679, cannot be held liable to pay compensation. It is pertinent to point here that the RW1/Lorry driver deposed categorically in his evidence that the lorry was parked on the left hand side of the service road with proper indicators. This aspect stood misunderstood even in the cross examination and as such the evidence stands un rebutted. Hence, the contra finding on the learned Tribunal cannot hold good and liable to be rejected.

4. Further, he submitted that PW1 eyewitness on the petitioners' side originally deposed that both vehicles were driven in the opposite direction and in the cross examination he deposed that lorry and motorbike were driven on the

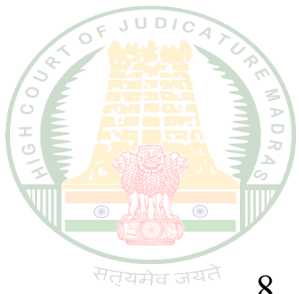


same direction and accident happened due to the application of sudden brake by the lorry which was ahead of bike. Therefore, the tribunal rejected the said evidence.

5. Further he submitted that in the absence of eyewitness, the only evidence available is evidence of PW.1, R.W.1 and the final report of police, along with relevant materials in this regard. The said evidence make it clear that the accident occurred only due to the fault of the deceased as he dashed against a parked vehicle that too on the left hand side of the service road. In the cross examination of R.W.1 clarified that the lorry was parked on the left hand side of the service road with parking light on. Thus the entire evidence go against the petitioners and as such the contra finding of the tribunal is liable to be interfered with.

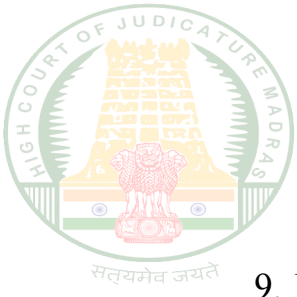
6. The learned counsel for the respondent submit that lorry was not parked on the service road with parking light and the tribunal has rightly passed the order. Hence, he prays to dismiss this appeal.

7. Heard the submission of the learned counsel for the appellant and the respondent.



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8. On a perusal of the charge sheet, it is stated that deceased was negligently driven the vehicle at the time of the accident but criminal case is totally differs from the tribunal proceedings. Therefore, appellant bound to prove the nature of the accident independently. Initial burden is upon the driver of the vehicle to prove that the lorry was parked on the service road with parking light. Driver of the lorry was examined as D.W.2, in his evidence he has not stated that it was parked with parking light. Therefore, burden is upon the driver of the lorry to prove that at the time of the accident the lorry was parked with parking light but he failed. Therefore, the Tribunal has rightly accessed the said aspect fixed the liability on the owner of the vehicle as well as insurance company which needs no interference. The order passed by the Motor Vehicle Accidents Claims Tribunal, Cum I Additional District and Sessions Court, Vellore, in MCOP No.375 of 2019 is well reasoned.



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9. In the result, this Civil Miscellaneous Petition is dismissed. No Costs.

Pending petition(s), if any, is/are closed.

**03-06-2025**

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The Motor Vehicle Accidents Claims Tribunal, Cum I Additional District and Sessions Court, Vellore

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

3. The Manager

New India Assurance Co.Ltd., Vellore 632 001.



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**T.V.THAMILSELVI J.**  
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