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CMA No. 1348 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-06-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1348 of 2025

1. SARANYA

2. Minor Gopesh

2nd appellant is minor,

Rep. by his mother as NG and NF.

3. Perumal

Appellant(s)

Vs

1. P.T.Aravindan

2.United India Insurance Co Ltd

Hari Niwas Tower, 2nd Floor, No. 163-

A, Thambu Chetty Street, Parrys

Corner, Chennai-08.

Respondent(s)

PRAYER:- Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicles Act, praying to allow this appeal and enhance the compensation amount awarded in the Judgement dated 06.07.2024 made in MCOP No.106 of 2020 on the file of Chief Judge, Small Causes Court at Chennai.



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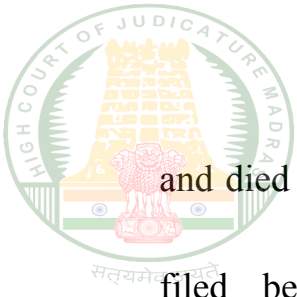
For Appellants: Ms.S.Krithika Devi
For M/s.S Law Firm

For Respondents: R1 - Dispensed With
Mr. I. Michael Visuvasam For R2

JUDGMENT

Challenging the award dated 06.07.2024 passed in MCOP.No. 106 of 2020 by the Chief Judge, Small Causes Court, Chennai, with regard to 50% of contributory negligence on the part of deceased, the claimants have preferred this Civil Miscellaneous Appeal.

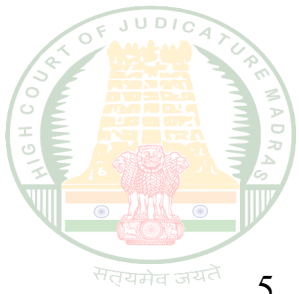
2. The case of the appellants is that on 13.10.2019 at about 19.45 hours, while the deceased Panneerselvam was riding a motorcycle bearing Regn. No. TN-06 F-7648 proceeding from West towards east, near Thellar Swamy Abedhanandha Polytechnic college on Vandavasi to Tindivanam National highway, a bus bearing Regn. No. TN-76 AA-5078, came from the opposite side driven in a rash and negligent manner, dashed the victim's two wheeler and caused an accident. Due to which, the deceased sustained grievous head injury



and died on the spot. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation of Rs.49,00,000/-.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the rider of the 1st respondent. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.17,40,000/- under various heads and the same was directed to be paid with interest at the rate of 7.5% per annum.

4. The learned counsel for appellant argues that while fixing the negligence, the tribunal without considering manner of accident as narrated in the F.I.R., has erroneously held that 50% of contributory negligence on the part of deceased, who was under the influence of alcohol at the time of accident. Therefore, the fixing of 50% contributory negligence on the part of deceased is exorbitant one and prayed to reduce the same.



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5. By way of reply, learned counsel for 2nd respondent raised strong objections stating that the manner of accident was not proved by the claimants before the tribunal. Though the appellants examined P.W.1, he is not an eye-witness, which was rightly observed by the tribunal, besides, he was under the influence of alcohol. Considering that, the tribunal had fixed 50% contributory negligence based on the post-mortem certificate, which shows that deceased liver had 183 mg. of ethyl alcohol and brain had 100 mg. of ethyl alcohol. Therefore, he was under the influence of alcohol and due to deceased negligence, the accident was happened. Hence, the tribunal has rightly fixed 50% of contributory negligence and prayed to dismiss this Civil Miscellaneous Appeal.

6. Heard and considered rival submissions made by both learned counsel for appellants as well as 2nd respondent and perused the materials available on record.



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7. Considering both side submissions, the fact reveals that at the time of accident, the deceased was riding a two wheeler and hit by a bus came from the opposite direction, due to which, he sustained fatal injury and died on the spot itself. As per the post-mortem certificate, it reveals that he was under the influence of alcohol. Though the manner of accident was disputed by the 2nd respondent insurance company, they have not adduced any material evidence. The petitioners have examined P.W.2, who deposed that at the time of accident, he was a pillion rider, but the complaint does not disclose the same. Therefore, the tribunal has not accepted the evidence of P.W.2. But admittedly, the two wheeler was dashed against a bus driven by the 1st respondent, due to which accident was happened. As the deceased consumed alcohol, the contributory negligence on the part of deceased was fixed at 50% without any material evidence as such is erroneous one and the same is liable to be set aside. Considering that, this court is inclined to fix the contributory negligence on the part of deceased at 25%. Moreover, the income of deceased also been challenged by the respondent, but the bank statement Ex.P15 produced on the side of petitioners shows that he has drawn salary from Yamaha company,



where he was working as a driver. Therefore, the tribunal fixed his income at Rs.19,770/-, but there is no contra evidence on the side of 2nd respondent.

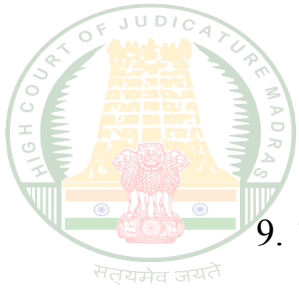
Hence, the findings rendered by the tribunal is confirmed except the contributory negligence fixed on the tribunal is modified at 25%.

8.In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:

Monthly income	:-	Rs.19770/-
Add: 40% future prospects	:-	Rs. 7908/-

		Rs.27,678/-

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Towards loss of income/dependency Rs.27678 x 12 x 15 x 2/3	33,21,360
2.	Towards loss of estate	15,000
3.	Towards loss of consortium (Rs.40,000/- (each) x 3)	1,20,000
4.	Towards funeral expenses	15,000
5.	Towards transportation charges including damages to personal belongings	10,000
	Total	34,81,360
	Less : 25% contributory negligence	8,70,340
	Compensation payable	26,11,020



9. The second respondent insurance company is directed to deposit the compensation of Rs.26,11,020/-, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of eight weeks from the date of receipt of this judgment. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

10. In the result, the Civil Miscellaneous Appeal is disposed of. No costs.

23-06-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

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

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



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T.V.THAMILSELVI J.

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