



CMA No. 899 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-07-2025

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CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 899 of 2025

1. SANJAI

S/o. Balasubramaniam, 73, Kundadam,
Dharapuram, Rudravathi, Tirupur
District.

Appellant(s)

Vs

1. KALIYAPPAN

S/o. Ramasamy, 4/18-A, Madhapur,
Palladam Taluk, Tirupur - 665.

2.The Manager

United India Insurance Co. Ltd,
Kumaran Road, Tirupur District.

3.SANDEEP

S/o. Balasubramaniam, 73, Kundadam,
Rudravathi, Dharapuram, Tirupur
District - 702.

4.The Manager

MAGMA HDI General Insurance



Company Limited, 1st Floor, Dhanam
Towers, Binny Road, Tirupur North,
Tirupur - 601.

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5.The Managing Director
TNSTC Ltd, (Kumbakonam) Division-
1, Periamilagu Parai, Collectors Road,
Trichy District.

Respondent(s)

CMA No. 899 of 2025

PRAYER

To allow this appeal and be pleased to enhance the amount awarded in MCOP No.873 of 2021 dated 02.01.2025 on the file of Motor Accident Claims Tribunal (Exclusive Motor Accident Claims Tribunal) at Tirupur.

CMA No. 899 of 2025

For Appellant(s): M/s. K. Varadha Kamaraj

For Respondent(s): Mr.D.Bhaskaran For R2 Rr3 To
5 - Notice Dispensed With R1-
No Appearance

JUDGEMENT

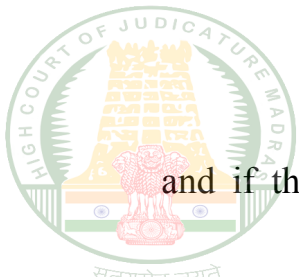
This Civil Miscellaneous Appeal has been filed to enhance the amount awarded in MCOP No.873 of 2021 dated 02.01.2025 on the file of Motor Accident Claims Tribunal (Exclusive Motor Accident Claims Tribunal) at Tirupur (in short "tribunal").



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2. On 06.04.2021 at about 03.00 p.m., when the claimant was riding pillion in the motorcycle bearing registration No. TN 78 E 2882, near Muthukumarasamy Kovil, Modappur Pirivu, on the Palladam to Trichy Road, another motorcycle bearing registration NO. TN 42 L 1128 ridden by the first respondent in a rash and negligent manner, hit the claimant's motorcycle, due to which the claimant sustained grievous injuries. Thereafter, the claimant filed the petition before the Tribunal claiming compensation. The second and fourth respondent herein contested the case by filing counter. On considering the oral and documentary evidence, the tribunal awarded the compensation. Challenging the award passed by the tribunal the owner of the vehicle filed this appeal.

3. The learned counsel for the appellant submits that the tribunal has erroneously exonerated the insurance company and fixed the liability upon the appellant. Further, he submits that accident had happened before the amendment of the M.V Act i.e on 06.04.2021, but the amendment put into effect on 01.04.2022. Therefore, the tribunal should have awarded the compensation by directing the second respondent/Insurance company to pay the compensation



and if there is any violation the tribunal should have directed the insurance company to pay the compensation and recover the same from the owner of the vehicle. Hence, he pray to modify the award passed by the tribunal.

4. The learned counsel for the second respondent insurance company relied the judgement of the Honourable Apex Court in the case of Shamanna Vs The Divisional Manager, The oriental Insurance Company, Ltd, the relevant portion is extracted below:

13. So far as the recovery of the amount from the owner of the vehicle, the insurance company shall recover as held in the decision in [Oriental Insurance Co. Ltd. v. Nanjappan and others](#) (2004) 13 SCC 224 where this Court held that “....that for the purpose of recovering the same from the insured, the insurer shall not be required to file a suit. It may initiate a proceeding before the concerned Executing Court as if the dispute between the insurer and the owner was the subject matter of determination before the Tribunal and the issue is decided against the owner and in favour of the insurer.”

5. Considering the facts of the case, the accident was happened before the amendment of M.V. Act. Further, the tribunal has rightly held that as there is fault upon the rider but also there is a violation of policy conditions. Therefore, the tribunal ought to have awarded that the second respondent/Insurance



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Company is directed to pay the compensation and permitted to recover the same from the first respondent. As discussed above, the second respondent is directed to pay the compensation and recover the same from the appellant herein under the same proceedings. Accordingly, the award passed by the tribunal is modified. Except above modification, the award passed by the tribunal in other heads remain unchanged.

6. In the result, this Civil Miscellaneous Appeal is disposed of. No Costs.

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

01-07-2025

pbl

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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To

1.KALIYAPPAN

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

7. The Motor Accident Claims Tribunal
(Exclusive Motor Accident Claims
Tribunal) at Tirupur.



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T.V.THAMILSELVI J.
pbl

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 05-08-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

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CMA No. 899 of 2025

For Appellant(s): M/s. K. Varadha Kamaraj

For Respondent(s): Mr.D.Bhaskaran For R2 Rr3 To
5 - Notice Dispensed With R1-
No Appearance

ORDER

This matter is listed today under the caption "For being mentioned"
at the instance of the learned counsel for the petitioner.



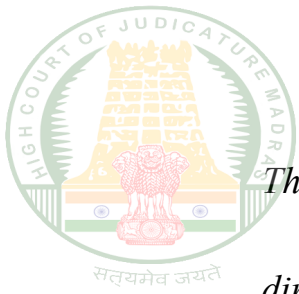
2. It is brought to the notice of this Court that some typographical error has been crept in Paragraphs Nos.2,3 and 5 of the order dated 01.07.2025.

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Hence, the same is to be replaced as follows:

*" 2. On 06.04.2021 at about 03.00 p.m., when the claimant was riding pillion in the motorcycle bearing registration No. TN 78 E 2882, near Muthukumarasamy Kovil, Modappur Pirivu, on the Palladam to Trichy Road, another motorcycle bearing registration NO. TN 42 L 1128 ridden by the first respondent in a rash and negligent manner, hit the claimant's motorcycle, due to which the claimant sustained greivous injuries. Thereafter, the claimant filed the petition before the Tribunal claiming compensation. The second and fourth respondent herein contested the case by filing counter. On considering the oral and documentary evidence, the tribunal awarded the compensation. **Challenging the award passed by the tribunal the appellant/claimant filed this appeal.***

*3. The learned counsel for the appellant submits that the tribunal has erroneously exonerated the insurance company and **fixed the liability upon the first respondent.** Further, he submits that accident had happened before the amendment of the M.V Act i.e on 06.04.2021, but the amendment put into effect on 01.04.2022.*



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Therefore, the tribunal should have awarded the compensation by directing the second respondent/Insurance company to pay the compensation and if there is any violation the tribunal should have directed the insurance company to pay the compensation and recover the same from the owner of the vehicle. Hence, he pray to modify the award passed by the tribunal.

*5. Considering the facts of the case, the accident was happened before the amendment of M.V. Act. Further, the tribunal has rightly held that as there is fault upon the rider but also there is a violation of policy conditions. Therefore, the tribunal ought to have awarded that the second respondent/Insurance Company is directed to pay the compensation and permitted to recover the same from the first respondent. As discussed above, the second respondent is directed to pay the compensation and recover the same from the **first respondent** herein under the same proceedings. Accordingly, the award passed by the tribunal is modified. Except above modification, the award passed by the tribunal in other heads remain unchanged.*



3. The time for deposit is extended for a further period of three weeks from the date of receipt of a copy of this order.

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4. Registry is directed to carry out necessary correction in the Order and issue fresh order copy.

5. In other respects, the order dated 01.07.2025 shall remain unaltered.

05-08-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

smn



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