



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-08-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 3209 of 2024

AND

CMP NO. 26772 OF 2024

1. The Branch Manager

The New India Assurance Co. Ltd., No.
128/A, Thiru. Ve.Ka. Road, Villupuram
Now at Third Party Claims Hub,
No.232,NSC Bose Road, Chennai 600
001

Appellant(s)

Vs

1. Ayyanar

S/o.Manickam, Mariamman Koil Street,
V.Agaram Village, Villupuram Taluk
and District

2.Santhosh

S/o.Narayanasamy, No. 1/65, North
Street, Arasamangalam Village and
post, Villupuram Taluk and District.

Respondent(s)



PRAYER

To allow the CMA by setting aside the order dt. 20.06.2023 in MCOP No.252/2019 passed by the Learned Special Subordinate Judge No.1, Motor Accident Claims Tribunal, Villupuram

CMA No. 3209 of 2024

For Appellant(s): Mr. Rajesh Ramamoorthy

For Respondent(s): Mr.S. Ramprabu For R1 R-2 - No Appearance

JUDGEMENT

This Civil Miscellaneous Appeal has been filed to allow the CMA by setting aside the order dt. 20.06.2023 in MCOP No.252/2019 passed by the Learned Special Subordinate Judge No.1, Motor Accident Claims Tribunal, Villupuram.

2. The brief facts of the case:

On 29.10.2017 at about 08.30 a.m., while the claimant was travelling as a pillion rider in the Passion Pro motorcycle bearing registration No. PY01CK 2319 along with his brother's son Bakkiyaraj. When they stopped the vehicle and waited for the workers on the left side of the road, in the Koliyanur to Panruti main road, near Melpathi Lake side junction road, Pillaiyarkuppam, the driver of the first respondent's vehicle Tipper lorry bearing registration No.



TN 32 AE 3190, who had driven the victim in a rash and negligent manner hit against the claimant/appellant, due to which the claimant sustained grievous injuries. Thereafter, the appellant/claimant filed the petition before the tribunal claiming compensation and third respondent contested the case by filing counter. After considering the oral and documentary evidence the tribunal awarded compensation. Challenging the award passed by the tribunal the Insurance company filed this appeal.

3. The learned counsel for the appellant/insurance company submits that there was a violation of policy condition. Hence, he prays to order for pay and recovery.

3.1. The learned counsel for the first respondent submits that the Tribunal has rightly passed award which needs no interference.

4. The learned counsel for the respondent submits that at the time of the accident lorry used for illegal mining purpose and the driver of the lorry was charged under Section 21(1) of Mines and Minerals (Development and Regulation) Act. Thereby, the driver of the lorry violated the policy conditions. Further, he relied the Judgment of Hon'ble Apex Court reported in 2004(1)



TNMAC 104 SC National Insurance Company Ltd Vs. Swaran Singh. Hence,

he prays to set aside the award passed by the Tribunal.

5. Heard the submission of the learned counsel for the appellant and the respondents.

6. Considering the ratio laid down in 2004(1) TNMAC 104 SC National Insurance Company Ltd Vs. Swaran Singh and admittedly, at the time of the accident, lorry belongs to the first respondent came in rash and negligent manner dashed against the deceased. Further, FIR recitals shows that at the time of the accident the lorry was carrying sand unlawfully. Thereby, the driver of the lorry violated the policy condition. However, the Tribunal awarded fixed liability on owner of the lorry as well as Insurance Company, as such is unsustainable and liability fixed by the tribunal alone is liable to be set aside. Hence, the Insurance company/appellant is directed to pay the compensation awarded by the tribunal and recover the same from the owner of the lorry/second respondent herein. Accordingly, this appeal is partly allowed. No Costs. Pending Petition, if any, is/are closed.

26-08-2025

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CMA No. 3209 of 2024



To

1. The Special Subordinate Judge No.1, Motor Accident Claims Tribunal,
Villupuram.

The Section officer, V. R Section, High Court, Madras.



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T.V.THAMILSELVI J.
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