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CMA No. 907 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-06-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 907 of 2025

and

CMP No. 7330 of 2025

The Manager

United India Insurance Co. Ltd., Motor

Third party Claims Hub, 1st Floor,

Silingi Buiding, No.134, Greams Road,

Chennai-600 006

Appellant

Vs

1. Rajammal

2. Logeswaran

Respondents

PRAYER:-Civi Miscellaneous Appeal filed under Sec.173 of Motor Vehicles Act, praying to allow the CMA by setting aside the Order dt. 23.08.2023 in MCOP No.1375/2020 passed by the Learned II Judge, Motor Accident Claims Tribunal, Small Causes Court, Chennai

For Appellant: Mr.Rajesh Ramamoorthy

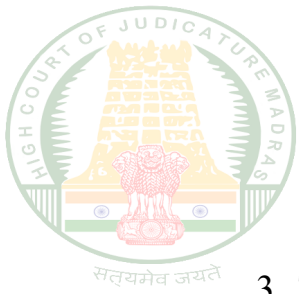
For Respondents: M/s. U.Chithambaram For R1
R2 - No Appearance



JUDGEMENT

WEB COPY Challenging the impugned award passed by the Motor Accident Claims Tribunal, II Judge, Small Causes Court, Chennai in MCOP No.1375 of 2020, dated 23.08.2023, the appellant/2nd respondent insurance company preferred this Civil Miscellaneous Appeal.

2.The case of the 1st respondent/petitioner is that on 15.01.2020 at about 04.30 hours. when the petitioner was travelling as a pillion rider in his son's two wheeler bearing Regn. No. TN-55 AB-4485 on Valanadu road from west to east andnear Kaluvankoil, the respondent two wheeler bearing Regn. NO. TN-45-BT-7228 came from east to west in a rash and negligent manner, dashed the two wheeler and caused an accident. Due to which, she sustained grievous injuries, for which she underwent treatment in the hospital. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.



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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 2nd respondent. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.6,50,468/- under various heads and the said compensation was directed to be paid with interest at the rate of 7.5% per annum.

4. The Insurance Company aggrieved by the quantum of compensation fixed by the Tribunal has filed the present appeal before this Court.

5. The learned counsel for appellant argues that at the time of alleged accident, a two wheeler belongs to her son, which was driven by a rider, who was a minor at the time of accident happened in the year 2019. So, there is a gross violation of rules as prescribed under Motor Vehicles Act. The 2nd respondent herein is the owner of vehicle. Therefore, the tribunal ought to have



passed an award with pay and recovery. Instead of that, the entire liability was fixed upon the appellant insurance company as such is illegal and liable to be set aside.

6. The learned counsel for 1st respondent admits that at the time of alleged accident, the rider of two wheeler was a minor.

7. Notice issued. The 2nd respondent/owner of vehicle remained exparte. At the time of argument, the learned counsel pointed out that Ex.R6 is the copy of final report received from the Juvenile court, which shows that rider of two wheeler was a minor. Therefore, the rider of two wheeler was made to appear before the Juvenile court. However, on perusal of entire discussion made by the Tribunal, there is no observation with regard to Ex.R6, which is the final report of Juvenile Court. Therefore, the rider of a two wheeler at the time of accident is a minor. So, the tribunal ought to have considered the same and would have enforced pay and recovery, instead of that, entire liability fixed upon the appellant insurance company as such is illegal and liable to be set aside. Hence,



the award passed by the tribunal in MCOP No. 1375 of 2020 is confirmed. But,

in respect fixing liability, the appellant insurance company is directed to pay the

award amount as arrived by the Tribunal within a period of eight weeks from

the date of receipt of copy of this judgment and they are permitted to recover

the same from the 2nd respondent/owner of vehicle. Accordingly, this Civil

Miscellaneous Appeal is disposed of. No costs. Consequently, the connected

Civil Miscellaneous Petition is closed.

19-06-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Motor Accident Claims Tribunal, II 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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19-06-2025 (2/2)