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C.M.A.No.2634 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2025

CORAM

**THE HONOURABLE MR.JUSTICE DR.G. JAYACHANDRAN
and**

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

C.M.A.No.2634 of 2017

1. H.Kalaivani
 2. H.Pavithra (Minor)
Rep. by her Mother and N.F.H.Kalaivani
 3. S.Balakrishnan Chettiar
 4. B.Vanaja
- ... Appellant(s)

Vs.

1. S.Sathish Kumar
 2. The Reliance General Insurance Co. Ltd.,
Regional Office (Legal Department),
Reliance House, 6th Floor, No.6,
Haddows Road, Nungambakkam,
Chennai – 600 034.
- ... Respondent(s)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to award the claim of Rs.27,00,000/- as prayed for with interest and costs.

For Appellant(s) : M/s.P.T.Saleem Fathima

For R1 : Disd dated 21.07.2023



For R2

: Mr.N.Vijayaraghavan
for M/s. M.B.Gopalan Associates
J U D G M E N T

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(Judgment of the Court was made by **DR.G.JAYACHANDRAN, J.**)

On 06.03.2011, at about 23.00 hours, one Mr. Hari Kannan alias Suresh, was riding a borrowed two-wheeler bearing Registration No. TN-05-AF-5661, and met with a road accident when an unknown car dashed against the motorcycle. The said Hari Kannan sustained head injuries and died. His wife, minor daughter, and parents preferred a claim petition against the owner of the two-wheeler and its insurer under Section 166 of the Motor Vehicles Act.

2. According to the claimants, the two-wheeler belonged to the first respondent. At the time of the accident, the deceased was riding the motorcycle, and the owner of the vehicle was travelling as a pillion rider. While proceeding along Nungambakkam High Road near the junction of Ponnangipuram-Sterling Road Junction, an unknown car dashed against the motorcycle, and sped away. The said Hari Kannan, who sustained severe head injuries, was immediately taken to the hospital, but he died on the following day. The claimants, being the dependents of the deceased Hari Kannan, who



was aged about 25 years and earning his livelihood by organizing musical programmes under the name “Suresh Rhythm Orchestra,” claimed that he was earning about Rs.10,000/- to Rs.12,000/- per month. They, therefore, sought compensation of Rs.27,00,000/- from the insurer.

3. The Insurance Company, arrayed as the second respondent, contested the claim, contending that the claim was filed against the owner and insurer of the vehicle which was being driven by the deceased himself. Though it was alleged that an unknown car dashed against the motorcycle, there was no specific or indirect allegation about the offending car. Since the deceased was the rider of the two-wheeler, he stepped into the shoes of the owner, and therefore, the insurer was not liable to pay compensation under Section 166 of the Motor Vehicles Act in the absence of proof of fault. The first respondent also filed a counter, contending that the petition was liable to be dismissed for non-joinder of necessary parties, namely, the owner and insurer of the offending car.

4. The Motor Accident Claims Tribunal framed the following points for determination:-



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1. Whether the accident had happened due to the rash and negligent riding of the rider of the first respondent's vehicle ?
2. Who is liable to pay compensation ?
3. What is the compensation amount is payable to the petitioner ?

5. On behalf of the claimants, two witnesses were examined, and seven documents were marked. The Tribunal, upon consideration of the First Information Report and the evidence of P.W.2, who claimed to be an eyewitness to the accident, concluded that the accident occurred solely due to the rash and negligent driving of the driver of the unknown car. Therefore, when there was no negligence on the part of the deceased rider of the two-wheeler, the Tribunal held that the second respondent, the insurer of the two-wheeler, who indemnified the owner, could not be fastened with liability to pay compensation. Aggrieved by the dismissal of the claim petition on the above grounds, the present appeal has been filed by the claimants.

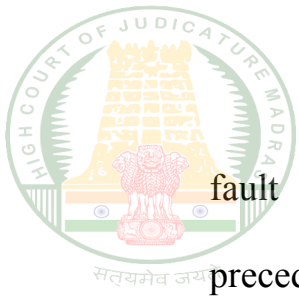
6. It is contended that the Tribunal failed to apply the settled principle



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of law that an employer is liable to compensate an employee for injuries sustained during the course of employment. It was specifically contended that the deceased was travelling along with his employer in the course of employment, and therefore, the principles under the Workmen's Compensation Act ought to have been applied while deciding the claim petition. Further, it is contended that the dismissal of the claim petition was against the spirit of beneficial legislation. Since the offending car involved in the hit-and-run accident could not be identified, the claimants were unable to array its owner and insurer as parties. Hence, the Tribunal ought to have treated or converted the petition filed under Section 166 of the Motor Vehicles Act into one under Section 166(A) of the Motor Vehicles Act, in order to give meaningful and purposeful effect to the beneficial object of the legislation.

7. The learned counsel for the appellants relied upon the judgment of the Hon'ble Supreme Court in the case of "**Ram Murti -vs- Punjab State Electricity Board**" reported in **(2025) 1 TN MAC 156 (SC)**, wherein the Supreme Court, extending the benefit of the social welfare provisions of the Act, granted compensation of Rs.5,00,000/- by applying the principles of "no-



fault liability” and submitted that the said decision may be taken as a precedent in the present case.

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8. The learned counsel appearing for the respondent Insurance Company would submit that the courts have consistently held that applications filed under Section 166 of the Motor Vehicles Act ought to be dealt with strictly within the framework of the said provision, and that failure to prove fault on the part of the respondent vehicle or its rider would lead to dismissal of the claim petition. It is further submitted that the judgment cited by the learned counsel for the appellant is a decision of the Hon’ble Supreme Court rendered in the exercise of the constitutional powers exclusively vested in it under Article 142 of the Constitution of India.

9. This Court, after giving anxious consideration to the rival submissions and the judgments consistently followed in cases of this nature, is of the view that though the legislation is a social welfare legislation, there must be a balance between the sympathy to the family of the deceased and his dependants, and the interest of the Insurance Company, which is engaged in the business of insurance within a fixed framework of regulation and statute.



Out of misplaced sympathy, the Court cannot direct the Insurance Company to pay compensation in a case where it is not even remotely liable to pay compensation.

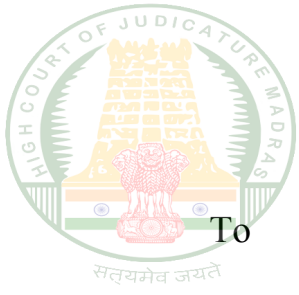
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10. In this case, while the evidence clearly indicates that neither the first respondent, the owner of the vehicle, nor the second respondent, the insurer of the vehicle, is liable to pay any compensation, the actual owner and insurer of the offending vehicle, namely, the unknown car and its insurer, alone are liable to pay compensation for the accident. Since the petition has been filed under Section 166 of the Motor Vehicles Act, this Court is inclined to confirm the order of the Tribunal impugned in this appeal.

11. Accordingly, the appeal stands dismissed. There shall be no order as to costs.

(Dr.G.J.,J.) (M.S.K.,J.)
15.10.2025

skr
Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No



To

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1. The Reliance General Insurance Co. Ltd.,
Regional Office (Legal Department),
Reliance House, 6th Floor, No.6,
Haddows Road, Nungambakkam,
Chennai – 600 034.
2. The II Court of Small Causes,
Motor Accidents Claims Tribunal,
Chennai.



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