



C.M.A.No.205 of 2025

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**C.M.A.No.205 of 2025
and C.M.P.No.1627 of 2025**

1.Conservator of Forest,
Dharmapuri Circle, Collectorate,
Dharmapuri.

2.The District Collector,
District Collectorate Office,
Dharmapuri Taluk and District. ... Appellants / 1st and 3rd Respondents

Vs.

1. M.Prasanth ... 1st Respondent / Petitioner

2. Sathish ... 2nd Respondent / 2nd Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 08.08.2024 made in M.C.O.P.No.868 of 2016 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Dharmapuri.



WEB COPY



C.M.A.No.205 of 2025

For Appellants : Mr.P.Gurunathan
Additional Government Pleader

J U D G M E N T

This Civil Miscellaneous Appeal has been filed challenging the award dated 08.08.2024 passed in M.C.O.P.No.868 of 2016 by the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Dharmapuri.

2. The facts required for disposal of this appeal are that on 12.08.2016 at about 06.15 p.m., when the first respondent was riding his two wheeler to go to Odasalpatty cross road, a car belonging to the first appellant was driven by its driver in a rash and negligent manner and hit against the first respondent's two wheeler, due to which, the first respondent sustained fracture injuries in his below left knee and abrasion all over the body. In this regard, a case in Crime No.219 of 2016 was registered for the offence under Sections 279 and 339 IPC. Thereafter, the first respondent/claimant has filed the claim petition before the Tribunal. The Tribunal has partly allowed the claim petition and awarded a sum of Rs.2,31,647/- together with interest at the rate of 7.5% per annum from



C.M.A.No.205 of 2025

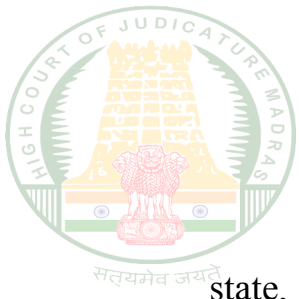
WEB COPY

24.11.2016 till the date of realization to be paid by the first appellant to the first respondent. Challenging the same, the present Civil Miscellaneous Appeal has been filed.

3. The learned counsel appearing for the appellants submits that at the time of accident, the first respondent has consumed alcohol and was not wearing helmet and the accident had occurred due to drunken driving by the first respondent and therefore, the first respondent is not entitled for compensation. In the accident register/Ex.R3 also, it was mentioned that there was a breath smell of alcohol, however, the complaint was closed as mistake of fact. Hence, he prays for allowing this appeal.

4. Since no adverse order is going to be passed against the respondents, notice to the respondents is dispensed with.

5. The main point raised by the learned counsel appearing for the appellants is that the first respondent has driven the vehicle in a drunken



C.M.A.No.205 of 2025

WEB COPY

state, due to which, the accident had occurred, and therefore, he is not entitled for compensation. Though in Ex.R3/Accident Register, it was mentioned that there was a breath smell of alcohol, the Doctor had not conducted any blood or urine test to prove that the first respondent was in an inebriated condition at the time of the accident. The Doctor, who issued the Accident Register, was not examined by the appellants to prove the above fact and the Investigating Officer was also not examined. Hence, considering the evidence adduced by the parties, the Tribunal has rightly fixed the negligence on the first appellant. Further, the Medical Board assessed the disability at 5% and a sum of Rs.6,000/- per percentage was taken. Thereby, the disability was arrived at Rs.30,000/-. The Tribunal, considering the fact that the first respondent was a mason and doing agricultural work and that the builders would not issue receipts for the payment made to the masons, fixed the notional income of the first respondent at Rs.15,000/- per month. The first respondent has undergone surgery for fracture and he would have incurred loss of income during the treatment period, and therefore, the Tribunal has awarded the loss of income



C.M.A.No.205 of 2025

WEB COPY

for a period of three months at Rs.45,000/- (Rs.15,000/- * 3). Based on the medical bills submitted by the first respondent, a sum of Rs.1,14,547/- was awarded under the head medical expenses by the Tribunal and the compensation awarded under the heads 'attender expenses', 'pain and suffering trauma', 'transport expenses' and 'nourishment' is also just and reasonable. Hence, the award dated 08.08.2024 passed in M.C.O.P.No.868 of 2016 by the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Dharmapuri, is hereby confirmed.

6. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

29.01.2025

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

ssb



C.M.A.No.205 of 2025

WEB COPY

To

- 1.The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate, Dharmapuri.
- 2.The Section Officer,
V.R. Section,
High Court,
Chennai.



WEB COPY



C.M.A.No.205 of 2025

M.DHANDAPANI, J.

ssb

C.M.A.No.205 of 2025

29.01.2025