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CMA No. 424 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-06-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 424 of 2025

AND

CMP NO. 3111 OF 2025

1. Shriram General Insurance Co Ltd
1st Floor, Plot No.5, Ramachandran
Street, Saravanan Nagar, Seevaram,
Perungudi, Chennai - 096.

Appellant(s)

Vs

1. S.Priya
W/o. Sankar, 2/166, Mondikanoor
Village, Venkatasamuthiram Post,
Bargur Taluk, Krishnagiri District -
104.

2.D. Narasimhan
S/o. Devaraj, D.No.1/47, Kannandahalli
Village and post, Bargur Taluk,
Krishnagiri Dt - 203.

Respondent(s)



CMA No. 424 of 2025

PRAYER

To set aside the order dated 12th day of July 2024 made in MCOP No.108 of 2023 on the file of Motor Accident Claims Tribunal (Special Sub Court) Krishnagiri.

CMA No. 424 of 2025

For Appellant(s): S.Dhakshnamoorthy

For Respondent(s): M/s Sp Yuaraj For R1 R2 -
Notice Dispensed With

JUDGEMENT

This Civil Miscellaneous Appeal has been filed to set aside the order dated 12th day of July 2024 made in MCOP No.108 of 2023 on the file of Motor Accident Claims Tribunal (Special Sub Court) Krishnagiri (in short "tribunal").

2. On 23.09.2022 the claimant and her husband were returning from Uthangarai in a Hyundai Santro Car bearing Regn. No. TN-01-AA-6365 driven by its driver cautiously keeping to the left side of the road, sounding horn, showing all necessary indicator lights and while nearing Shri Ramachandra mahal, the driver of the Mahindra Maxi Cab bearing Registration No. TN-11-



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1237, has driven the four wheeler in a rash and negligent manner without observing the Traffic rules, without sounding horn and applying indicator lamps has suddenly dashed against the Hyundai Santro Car and caused an accident. Due to the impact the claimant sustained injury and was treated at Govt. Hospital Uthangarai, Nathans Specialty Hospital, Krishnagiri and till undergoing private treatment. Thereafter, the claimant filed the petition before the tribunal claiming compensation. The appellant Insurance company contested the case by filing counter. After considering the oral and documentary evidence, the tribunal awarded a sum of Rs.4,30,000/- as compensation. Challenging the award passed by the tribunal insurance company filed this appeal.

2. The learned counsel for the appellant submits that findings of the tribunal that the FIR is registered against the driver of the appellant vehicle is ex-facie erroneous. The FIR is filed against the driver of the car in which the claimant travelled. Further, the tribunal failed to appreciate the fact that when the petition is filed under Section 166 of Motor Vehicles Act, the onus is upon the claimant to prove the negligence. In this case the FIR and charge sheet is filed against the husband of the claimant/Sankar, who was driving the car and



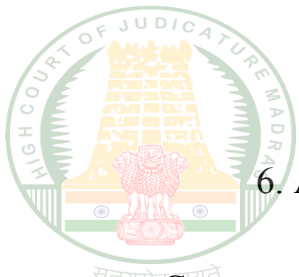
also the tribunal failed to note that no independent eye witness has been examined by the claimant to prove the negligence of the insured vehicle.

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Further, he argued that at the time of the accident, the car driven by the husband of claimant bearing Registraion No. TN-01-AA-6365 in a rash and negligent manner due to which the accident was happened. Therefore, the opposite car driver given a complaint against the husband of the claimant in crime No. 147/2022 but the tribunal failed to take note of the negligence on the part of the claimant's husband and erroneously fixed entire liability upon the appellant company as such is illegal and liable to be set aside.

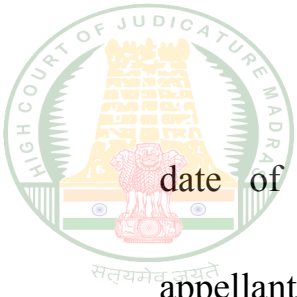
4. The learned counsel for the respondent submits that before the tribunal appellant has not adduced any evidence to disprove the negligence of the claimant's driver. Now, they put forth new defence as such is unacceptable. On considering the evidence on record, the tribunal rightly fixed the compensation as well as fixed the liability upon the appellant. Hence, he prays to dismiss this appeal.

5. Heard both sides.



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6. At the time of the argument, FIR No.147/2022 is produced before this Court pertaining to the accident involved in the present case, which was given against the opposite car driven by the husband of the claimant namely Sankar bearing Registration No. TN 01-AA-6365 in a rash and negligent manner from the opposite direction hit the Mahindra car but to disprove the same there is no complaint was lodged on the side of the claimant's husband. Therefore, the FIR reveals that there was negligence on the part of the claimant's husband, but, the tribunal has fixed entire liability upon the insurance company, which is erroneous and liable to set aside. In view of the above, this Court is inclined to fix 70% liability upon the appellant and 30% upon the husband of the claimant/Sankar. Except above modification, the award passed by the tribunal remain unchanged. The tribunal has awarded a sum of Rs.4,30,000/- as compensation, out of which, 70% is Rs. 3,01,000/-. Accordingly, The appellant is directed to deposit a sum of Rs. 3,01,000/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, to the credit of MCOP No.108 of 2023 on the file of Motor Accident Claims Tribunal (Special Sub Court) Krishnagiri, within a period eight weeks from the



date of receipt of a copy of this judgement. On such deposit, the appellant/claimant is permitted to withdraw the award amount by making formal application before the Tribunal. The respondent may deduct the amount, if any amount has already deposited before the tribunal.

7. With the above direction, the Civil Miscellaneous Appeal is partly allowed. No costs.

23-06-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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To

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2.D. Narasimhan

S/o. Devaraj, D.No.1/47, Kannandahalli
Village and post, Bargur Taluk,
Krishnagiri Dt – 203.

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

4. The Motor Accident Claims Tribunal
(Special Sub Court) Krishnagiri.



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T.V.THAMILSELVI J.
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