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CMA No. 3553 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-07-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 3553 of 2024

AND

CMP NO. 30031 OF 2024

Ezhumalai

Appellant

Vs

1. Kalaiyarasi

2.Priyadharshini

3.Minor Kirubakaran

S/o.Arumugam, rep. by guardian
mother 1st Respondent,

4.Navammal

Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicle Act, praying to set aside the judgement and Award of the Learned MACT at Villupuram (Spl.Principal Dist. Judge), Villupuram made in MCOP.427/2023 dated 26-09-2024.



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For Appellant(s): Ms.R.Swathi For
Mr.R.Radhakrishnan

For Respondent(s): Mr.S.Elankumaran For R1 To R4

JUDGMENT

Challenging the impugned award passed by the Motor Accident Claims Tribunal, Special Principal District Judge, Villupuram in MCOP No.427 of 2023, dated 26.09.2024, the appellant/owner preferred this Civil Miscellaneous Appeal.

2.The case of the respondents is that on 23.03.2023 at about 07.00 hours. when the deceased Arumugam was standing in a upper of tractor with trailor bearing Regn. No. TN-32 H-3886, at that time, the above said tractor diver suddenly moved the tractor in a rash and negligent manner, he was thrown out from the vehicle and caused an accident. Due to which, deceased Arumugam sustained multiple grievous injuries and vital parts of the body, for which he underwent treatment in the hospital, but inspite of treatment he died. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation of Rs.50,00,000/-.



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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 1st respondent/owner. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.18,32,000/- under various heads and the said compensation was directed to be paid with interest at the rate of 7.5% per annum.

4. The appellant, who is driver of a tractor and also son of 2nd respondent, who is owner of vehicle, aggrieved by the negligence fixed by the Tribunal has filed the present appeal before this Court.

5. The learned counsel for appellant argues at the time of argument that the accident was happened due to negligence on the part of deceased Arumugam, who was standing on the top of paddy straw, which was loaded in the trailer of tractor in a careless manner, so by his own negligence, he fell down from the tractor. Therefore, there is no negligence on the part of driver of tractor, but the tribunal has erroneously fixed 50% negligence on the side of owner of tractor and 50% of negligence on the part of deceased. In fact, the



entire liability ought to have been fixed upon the deceased, who had attempted to ran over the grass, at that time, the alleged accident was happened. Therefore, he prayed to set aside the findings of tribunal.

6. By way of reply, the learned counsel for respondents 1 to 4 argue that at the time of accident, the deceased was doing work in the agricultural field, but he was asked to load paddy straw, at that time, the driver of tractor/appellant herein suddenly moved the tractor, due to which deceased Arumugam was fell down and subsequently he died in the hospital. Hence, the nature of accident would reveals that the accident was happened due to the negligence of rider of a tractor viz., appellant herein. Hence, he prayed to set aside the 50% contributory negligence fixed upon the deceased Arumugam.

7. Heard and considered the submissions made by learned counsel for appellant as well as respondents 1 to 4 and perused the materials available on record.

8. Considering both side submissions and on perusal of F.I.R., it reveals that on the date of accident, the tractor bearing Regn. No. TN-32 H-3886 belongs to father of appellant viz., Muruvan, which was driven by the 1st



respondent/appellant herein. Due to the negligence on the part of appellant/driver of tractor, a sudden move made by him, due to which deceased

Arumugam, who was loading the paddy straw was fell down and sustained fatal injuries. Therefore, the complaint was also given by the brother of deceased.

But, the learned counsel for appellant would argue that the deceased was engaged in loading paddy straw and thereafter, he was standing on the overload, due to which, by his own carelessness, he fell down and sustained injuries.

Hence, he died due to his own negligence and they are not liable to pay compensation. He has also pointed out that P.W.2 examined on the side of respondents is not an eye-witness and he was only an individual witness.

Therefore, it cannot be taken into consideration with regard to manner of accident happened. Admittedly, at the time of accident, the deceased was in the field belongs to father of appellant and the tractor also belong to father of appellant Muruvan, but they have not renewed the insurance at the time of accident. Further, on seeing the facts, the accident was happened when the deceased Arumugam was loading paddy straw, at that time, vehicle was moved, due to which he fell down and sustained injury. Therefore, the tribunal



erroneously fixed 50% negligence on the side of deceased without considering the negligence on the side of driver of tractor as such is highly excessive.

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Hence, this Court is inclined to modify the contributory negligence at 20% upon the deceased and 80% of contributory negligence upon the driver of tractor/son of deceased, appellant herein. However, he is entitled to recover the proportionate share from other legal heirs of deceased father.

9. In the result, this Civil Miscellaneous Appeal is disposed of. No costs.

Consequently, the connected Civil Miscellaneous Petition is closed.

15-07-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Motor Accident Claims Tribunal, Special Principal District Judge,
Villupuram.

2. Section Officer, VR Section, Madras High Court.



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T.V.THAMILSELVI J.

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**15-07-2025
(1/2)**