



WEB COPY

CMA No. 1247 of 20



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-06-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1247 of 2020

AND

C.M.P. Nos. 8203 and 8206 of 2020

The National Insurance Co., Ltd,
rep by its Manager,
having Office at Anna Salai,
Chennai 2.

...Appellant(s)

Vs

1. Govindammal (died)
- 2.Vasanthamani At Vasantha
- 3.Tharageswari
- 4.Bharathi Lakshmi
- 5.Anitha Devi
- 6.S.Vinayagamurthy
- 7.V.Jagadeesan
- 8.K.G.Radhakrishnan
- 9.K.G.Sundaramurthy

...Respondent(s)

(R8 and R9 brought on record as the legal representatives of the deceased R1 vide order of this Court dated 17.03.2020 in CMP.Nos.5816, 5820, 5817 of 2020 in CMA.SR.Nos.18826 of 2019 by SMSJ)



PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and Decree dated 18.12.2014 made in MCOP No.54 of 2010 on the file of the learned Motor Accidents Claims Tribunal, District Court - II, Kanchipuram.

For Appellant(s): M/s.S.Arun Kumar

For Respondent(s): M/s.C.Prabakaran for R2 to R5
R1- Died
R6 to R9 - Batta Due

ORDER

The above Civil Miscellaneous Appeal arises against the Award and Decree dated 18.12.2014 made in M.C.O.P.No.54 of 2010 on the file of the learned District Judge No. II, Motor Accidents Claims Tribunal, Kanchipuram.

2.The deceased G.Venkatesan is the son of the 1st petitioner, husband of the 2nd petitioner and father of the petitioners 3 to 5. The claimants, being the legal heirs of the deceased, filed MCOP No. 54 of 2010, claiming compensation for the death of their kin in a motor vehicle accident that occurred on 10-11-2001 at about 18:00 hours. The deceased was traveling as a pillion rider on a



Hero Honda motorbike bearing Reg.No.TN 21C 7821 driven by Babu Kennedy

from Kancheepuram to Chennai. While passing L&T Company, Neervalur

Village, on the National Highway, the 2nd respondent's Ambassador car bearing

Reg.No.TMC 1593, driven by the 1st respondent, allegedly collided with the

rear of the motorbike, due to rash and negligent driving, causing fatal injuries.

The deceased was admitted initially to Government Hospital, Kancheepuram,

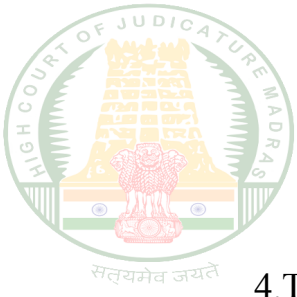
then referred to Government Hospital, Chennai, and finally admitted to

Ramachandra Hospital, Porur, where he succumbed to his injuries at 20:30

hours. The claimants contended that the respondents, including the Insurance

Company, are statutorily liable to pay compensation.

3.The 3rd respondent/Insurance Company filed a counter-claim denying the liability on various grounds that the accident was allegedly caused by the motorbike rider hitting a stone, not by the insured vehicle. Further, the motorbike was not insured, and the driver of the 2nd respondent's vehicle did not hold a valid driving license. Hence, the compensation claimed is excessive and not justified.



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4.The Tribunal, after examining evidence and depositions, accepted the claim of the petitioners and awarded compensation.

5.The learned counsel appearing for the appellant/Insurance Company submitted that the vehicle was not driven by the 6th respondent nor the vehicle was not involved in the accident. After the accident, the said vehicle was included as if it was involved in the accident. Further, there are discrepancies in the First Information Report and the investigation. Hence, on the directions of this Court, they initiated Criminal proceedings against them and Final Report was also filed. Therefore, the Award passed by the Tribunal fixing liability upon the Insurance Company, as if the Car bearing Reg.No.TMC 1593 belongs to the 6th respondent was involved in the accident. Therefore, he prayed to set aside the findings of the Tribunal.

6.The learned counsel appearing for the claimants contended that one of claimants, namely, 1st respondent, mother of the deceased, had already passed

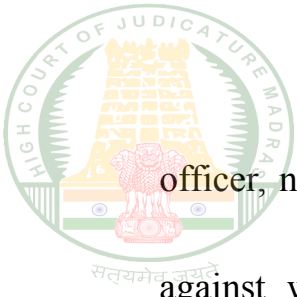


away and the deceased died leaving behind his wife and three daughters as his legal heirs and his daughters also got married and settled in their life. The wife

of the deceased is not inclined to pursue the claim. Therefore, they want to withdraw M.C.O.P.No.54 of 2010 on the file of the learned District Judge, District Court No.II, Motor Accidents Claims Tribunal, Kanchipuram.

7.When the claimants have preferred to withdraw this case, this Court is inclined to accept their request for withdrawal. Accordingly, M.C.O.P.NO.54 of 2010 is dismissed as withdrawn. Consequently, the findings rendered by the Tribunal is set aside. Therefore, this Civil Miscellaneous Petition is dismissed as M.C.O.P.NO.54 of 2010 was withdrawn by the claimants. The appellant/Insurance Company is permitted to withdraw the amount deposited by them within a period of four weeks from the date of receipt of a copy of this Judgment.

8.Further, the learned counsel for the claimants also pointed out that in the Criminal proceedings, one of the accused Govindaraj died and the police



officer, namely, Mr.Thirunavukarasu, Inspector of Police, 7th accused also died against whom the criminal proceedings have been filed by the Insurance

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Company, as per the directions issued by this Court and the complaint was taken on file.

9.On considering the fact that the main accused, namely, Thirunavukarasu, Inspector of Police, according to the prosecution, had died and one of the claimants Govindaraj had also died and the other claimants are wife and daughters of the deceased and also they are not inclined to proceed with the MCOP Petition and the same was also dismissed as withdrawn by this Court. Since the main accused died the criminal case charges are abated and the same is to be taken into consideration by the learned Judicial Magistrate No.I, Kancheepuram in Calendar Case. No costs. Consequently, connected Miscellaneous Petitions are closed.

23-06-2025

mps

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No



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To
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1.The District Judge,
District Court No. II,
Motor Accidents Claims Tribunal,
Kanchipuram.

2.The Judicial Magistrate No.I,
Kancheepuram.

3.The Section Officer,
VR Section,
Madras High Court.



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T.V.THAMILSELVI J.

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