



CMA(MD)Nos.513 and 1061 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED :05.12.2025

CORAM:

THE HONOURABLE MR JUSTICE G.K. ILANTHIRAIYAN

AND

THE HONOURABLE MS.JUSTICE R. POORNIMA

CMA(MD)Nos.513 and 1061 of 2024

and

CMP(MD)Nos.6813, 11009 and 11325 of 2024

and

Cross Objection(MD) No.57 of 2024

CMA(MD)No.513 of 2024

The Divisional Manager,
M/s.United India Insurance Co.Ltd.,
Promenade Road, Cantonment,
Tiruchirapalli,
Tiruchirapalli District

... Appellant

vs.

1. G.Chandrasekar
2. D. Nandhakumar

..Respondents

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act
, against the order dated 31.08.2023 made in MCOP No.305 of 2020 on
the file of the Motor Accident Claims Tribunal (III Additional Sub Court,
Trichy).

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For Appellant : Mr.B.Rajesh Saravanan

For R-1 : Mr.Ponkarthikeyan

For R-2 : No appearance

CMA(MD)No.1061 of 2024

The Divisional Manager,
M/s.United India Insurance Co.Ltd.,
Promenade Road, Cantonment,
Tiruchirapalli,
Tiruchirapalli District

... Appellant

vs.

1. S.Mani

2. D. Nandhakumar

..Respondents

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act
, against the order dated 31.08.2023 made in MCOP No.299 of 2020 on
the file of the Motor Accident Claims Tribunal (III Additional Sub Court,
Trichy).

For Appellant : Mr.B.Rajesh Saravanan

For R-1 : Mr.Ponkarthikeyan

For R-2 : No appearance



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Cross Objection(MD) No.57 of 2024

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Chandrasekar

.. Appellant

.vs.

1. The Divisional Manager,
M/s.United India Insurance Co.Ltd.,
Promenade Road, Cantonment,
Tiruchirapalli,
Tiruchirapalli District

2. Nandhakumar

.. Respondents

PRAYER: Cross Objection filed under order 41 Rule 22 of CPC to allow the cross objection appeal and to enhance the compensation awarded in MCOP No.305 of 2020 on the file of the Motor Accident Claims Tribunal (III Additional Sub Court, Trichy) dated 31.08.2023

For Appellant : Mr.Ponkarthikeyan

JUDGMENT

[Judgment of the Court was made by G.K. ILANTHIRAIYAN, J.]

Since these cases have been filed against the common award passed in the two claim petitions filed by the claimants arising out of the same accident, all the cases were heard together and disposed of by this



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common judgment.

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2. CMA(MD)No.513 of 2024 has been filed by the insurer as against the award passed in favour of the rider of the two wheeler.

3. CMA(MD) No. 1061 of 2024 has been filed by the insurer as against the claim made by the pillion rider of the motor cycle.

4. Cross objection (MD) No.57 of 2024 has been filed by the rider of the motor cycle as against the contributory negligence fixed by the Tribunal.

5. The brief facts of the case are that on 23.08.2015, one Chandrasekar/claimant in MCOP.No.305/2020 was riding his two wheeler slowly and carefully to Srirangam bus stand to drop his father-in-law namely, Mani/claimant in MCOP.No.299/2020 who seated as pillion in the two wheeler. While so, the driver of the vehicle bearing Reg.No.TN 45 BA 6255 Toyota Etios insured with the appellant



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insurance company came in the opposite direction in a rash and negligent manner and dashed against the two wheeler. Due to the impact, the rider of the vehicle as well as the pillion fell down and sustained grievous injuries. Immediately both of them were taken to hospital and admitted as inpatient. For the injuries sustained by them, they filed separate claim petitions. MCOP No.305 of 2020 was filed by the rider of the motor cycle and MCOP No.299 of 2020 was filed by the pillion rider of the motor cycle. After considering the oral and documentary evidence, the Tribunal held that the driver of the vehicle insured with the appellant was responsible for the accident and awarded compensation of Rs. 31,75,328 in MCOP No.305 of 2020 and Rs. 1,11,000/- as compensation in MCOP No.299 of 2020 by an order dated 31.08.2023. However, the Tribunal taking note of the Accident Register copy of the rider of the vehicle that the rider was under the influence of alcohol at the time of accident, fixed negligence in the ratio of 90 : 10 as between the 2nd respondent and the rider of the two wheeler and directed the appellant to pay the compensation to the claimants in respect of 90% negligence fixed on the 2nd respondent/owner of the



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offending vehicle.

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6. Pending appeal, after receipt of notice, the rider of the motor cycle in MCOP No.305 of 2020 has filed cross objection questioning the fixation of 10% negligence on him.

7. The learned counsel appearing for the appellants in both the appeals would submit that both the rider of the motor cycle as well as the pillion were under the influence of alcohol and rider alone drove the vehicle in a rash and negligent manner and caused the accident. Though the Tribunal found drunken drive on the part of the rider of the motor cycle, instead of fixing entire negligence on the rider, it has erroneously fixed negligence in the ratio of 90 : 10 as between the driver of the vehicle insured with the appellant and the rider of the motorcycle. He would further submit that the Tribunal has also failed to consider that the FIR registered against the 2nd respondent has been closed as mistake of fact and therefore, the Tribunal ought to have exonerated the



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appellant by fixing entire negligence on the rider of the motorcycle.

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8. Per contra the learned counsel appearing for the Cross Objector would submit that though the rider of the motor cycle and the pillion were under the influence of alcohol as recorded in the accident register , both of them were not subjected to any medical examination to prove the same. Therefore, no negligence can be fastened on the rider of the motor cycle on the ground that he was under the influence of alcohol. In support of his contention, he relied on the judgment of the Division Bench of this Court in the case of *Manikandan vs. P.Palani and others* reported in **2020 (3) CTC 157**, wherein, it has been held that though the discharge summary speaks about smelling of alcohol and there is evidence of RW2/doctor , those evidences are not enough to comply with the requirement under Section 185 of the Motor Vehicles Act, 1988.

9. On perusal of the rough sketch which was marked as Ex.X.5 it clearly shows that the rider of the motor cycle drove the motor cycle



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from south to north opposite to Kala avenue on the right side of the road at about 04.15 pm., on 23.08.2025 and dashed against the vehicle which was coming in the opposite direction from north to south and caused the accident due to which they both sustained injuries. The rough sketch also reveals that motor cycle dashed against offending vehicle on the extreme right hand side of the road which shows that the rider of the motor cycle lost his control and dashed against the opposite vehicle that too in the extreme right hand side of the road. Due to that, accident occurred and both of them sustained injuries and immediately they were taken to hospital where the medical officer who was in-charge has recorded statements from them. The accident registers were marked as Ex.X.6 and X.7, which also reveal that both the rider and pillion riders of the vehicle were under the influence of alcohol. Therefore the Tribunal fastened the negligence on the part of the claimants to the tune of 10%. Infact Ex.X.5 shows the manner in which the accident had occurred and it also shows that only because of the negligent driving of the motor cyclist, the accident had taken place.



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10. Therefore, the judgment relied upon the learned counsel appearing in the cross objector is not applicable for the simple reason that the smell shows some influence of alcohol, but in the case on hand the very first document recorded immediately after the accident by the doctor who treated the injured categorically states that both the rider as well as the pillion of the motor cycles were under the influence of alcohol. It is also curious to see that both the rider and the pillion rider are both son-in-law and father-in law. Even then, considering the nature of injuries sustained by the claimants the Tribunal awarded compensation, however the Tribunal failed to deduct contributory negligence proportionally.

11. In view of the above, this Court is inclined to modify the negligence in the ratio of 25 : 75 as between the rider of the motor cycle as well as the driver of the vehicle insured with the appellant insurance company. Accordingly the award passed by the Tribunal is modified as under:



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12. In the result,

i) C.M.A(MD)No.513 of 2024 is allowed in part and the award amount is reduced from Rs.31,75,328/- to Rs.23,81,496/- (Rs.31,75,328/- - Rs.7,93,832/-) and the first respondent/claimant is entitled to the above said award amount with interest at the rate of 7.5% p.a.from the date of claim petition till the date of realization. It is reported that the appellant has already deposited 50% of the award amount to the credit of claim petition before the Tribunal. The appellant Insurance Company is directed to deposit the remaining award amount in respect of 75% liability with proportionate accrued interest and costs within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the first respondent/claimant is permitted to withdraw the above said award amount, less the award amount already withdrawn, if any, by filing necessary application before the Tribunal

ii) C.M.A(MD)No.1061 of 2024 (MCOP.No.299 of 2020) is partly allowed and the award amount is reduced from Rs.1,11,000/- to Rs.



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83,250/- (Rs.1,11,000/- - Rs.27,750/-)and the first respondent/claimant is entitled to the above said award amount with interest at the rate of interest at the rate of 7.5% p.a from the date of claim petition till the date of realization. It is reported that the appellant has already deposited 50% of the award amount to the credit of claim petition before the Tribunal. The appellant Insurance Company is directed to deposit the remaining award amount in respect of 75% liability with proportionate accrued interest and costs within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the first respondent claimant is permitted to withdraw the award amount, less the award amount already withdrawn if any, by filing necessary application before the Tribunal. Consequently connected miscellaneous petitions stand closed.

iii) Cross Objection (MD) No.57 of 2024 stands dismissed.

[G.K.I., J.]

[R.P., J.]

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Index : Yes / No
Neutral Citation : Yes / No
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The Motor Accident Claims Tribunal (III Additional Sub Court, Trichy).



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G.K. ILANTHIRAIYAN,J.
AND
R. POORNIMA,J.

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DATED :05.12.2025