

C.M.A(MD)No.889 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATE : 28.08.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A(MD)No.889 of 2025

and

C.M.P(MD)No.13756 of 2025

The Branch Manager,
M/s.United India Insurance Co.Ltd,
having its Office at No.96 B,
K.T.Complex, New Scheme Road,
Pollachi, Coimbatore District.
(Represented by the Branch Office,
M/s.United India Insurance Company Ltd.,
Panthalkudi Road, Aruppukottai)

: Appellant

Vs.

1.Subramani

2.Mariyammal

3.Meena

4.Maheswari

5.Pandiyammal

6.Srinivasagan

7.Durairaj

8.The Branch Manager, Solamandalam,
M/s.General Insurance Company Ltd,
having office at Door No.3 & 4,
Dindigul National High Road,
NH 7, Kalavasal, Arasaradi, Madurai.

: Respondents



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For Appellant : Mr.C.Jawahar Ravindran

For Respondents : Mr.V.Sakthivel, for R1 to R5.

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the judgment and decree, dated 12.01.2024 passed in M.C.O.P.No.66 of 2021 on the file of the Motor Accident Claims Tribunal cum Subordinate Judge, Aruppukottai.

J U D G M E N T

The Civil Miscellaneous Appeal is directed against the award passed in M.C.O.P.No.66 of 2021, dated 12.01.2024 on the file of the Motor Accident Claims Tribunal/Subordinate Judge, Aruppukottai.

2.The Appellant/Insurer, who was mulcted with liability to pay compensation of Rs.33,14,482/- with interest and costs to the respondents 1 to 5/claimants for the death of one Mayakrishnan, consequent to an accident occurred on 05.07.2021, challenged the liability mulcted on it.

3. For the sake of convenience and brevity, the parties herein after will be referred as per their ranking/status before the Tribunal.

4. The case of the claimants is that on 05.07.2021, at about 07.35 pm., the deceased Mayakrishnan was travelling in a two wheeler bearing



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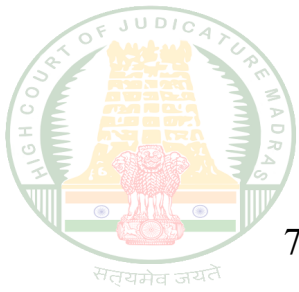
Registration No.TN-67-BW-6822 as pillion rider along with his relative-

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third respondent and at the place near, the first respondent car bearing Registration No.TN-20-BS-6954, which came in the same direction in a rash and negligent manner, dashed against the two wheeler and as a result of which, the pillion rider sustained serious injuries and despite treatment succumbed to the injuries on 10.07.2021 and that the first respondent's car driver was responsible for the accident.

5. The first respondent owner of the car has filed a counter statement disputing the liability. The second respondent/insurer for the car and the fourth respondent/insurer for the two wheeler have filed counter statements raising objections.

6.The defence of the second respondent is that the car driver was not possessing valid driving license and the first respondent by allowing his driver to drive the car violated the policy conditions and that the accident was occurred only due to the rash and negligent driving of the two wheeler rider as he suddenly and without any signal turned right side and invited the accident; that the deceased was also not wearing helmet at the time of accident and that therefore, the second respondent is not liable for the claim.



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7. During enquiry, the claimants examined the second claimant as P.W.1 and two other witnesses as P.W.2 and P.W.3 and exhibited 32 documents as Ex.P.1 to Ex.P.32. The appellant/Insurer examined two witnesses as R.W.1 and R.W.2 and marked the Insurance Policy as Ex.R.1. Three written documents were marked as Ex.X.1 to Ex.X3.

8. The learned trial Judge, upon considering the pleadings and the evidence both oral and documentary and on hearing the arguments of both the sides, passed the impugned award, dated 12.01.2024 holding that the car driver was responsible for the accident and taking note of the fact that the deceased was not possessing driving license, directed the appellant/Insurer to pay compensation of Rs.33,14,500/- with interest and cost and then to recover the same from the first respondent. Aggrieved by the impugned award, the appellant has preferred the present appeal.

9. The main contention of the appellant is that the two wheeler rider came in a rash and negligent manner and dashed against the car; that the accident has taken place on the middle of the road and that the Tribunal, without considering the evidence available on record, has mulcted the entire liability on the car driver. The claimant examined P.W.2 occurrence witness

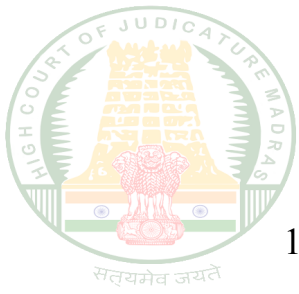


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and he deposed about the manner of accident and according to him that the accident was occurred only due to the rash and negligent driving of the car driver.

10. It is pertinent to note that FIR was registered against the car driver and after investigation, the jurisdictional Police laid the final report against the car driver. The Tribunal considering the evidence of P.W.2 and other documents exhibited, has come to a right decision that the accident was occurred only due to the rash and negligent driving of the car driver and the same cannot be found fault with.

11. The learned counsel appearing for the second respondent/insurer would contend that the deceased was not wearing protective head gear at the time of accident and hence, contributory negligence is to be fixed on the deceased also. Except the above plea, as rightly observed by the learned trial Judge, the second respondent has not adduced any iota of evidence to substantiate the said plea. Moreover, when P.W.2 occurrence witness was cross examined by the second respondent side, a suggestion was raised that the deceased was not wearing helmet at the time of accident. P.W.2 deposed specifically that the deceased was wearing helmet at the time of accident.

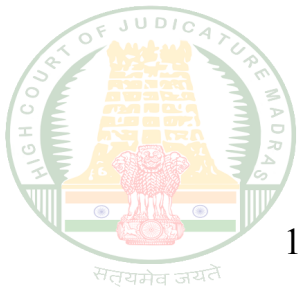


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12. Considering the above, the trial Court has rightly rejected the said plea of the second respondent. The second respondent has also taken a stand that the first respondent's driver was not possessing valid driving license at the time of accident. In order to prove the said defence, the second respondent summoned the Motor Vehicles Inspector, Aruppukottai Regional Transport Office as R.W.1 and its Branch Manager as R.W.2. Considering the evidence adduced, the Tribunal has rightly held that the first respondent's driver has no valid driving license at the time of accident and by allowing his driver to drive the vehicle without license, the first respondent has violated the policy condition and that therefore, the second respondent after paying compensation to the claimants, is entitled to recover the same from the first respondent.

13. Now turning to the quantum of compensation, the main contention of the appellant is that the Tribunal by relying on the evidence of P.W.3 has fixed the monthly income of the deceased as Rs.20,000/- per month, which is very much excessive. It is evident from the records that the claimants in their claim petition itself have stated that the deceased was working as a driver for P.W.3 and at the time of trial, they have examined the said Doctor as P.W.3. P.W.3 in his evidence would submit that the deceased was working as driver for him for 5 years and Rs.20,000/- was paid as monthly salary.

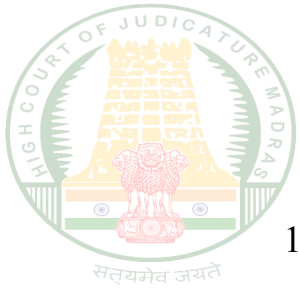


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14. It is pertinent to note that as rightly pointed out by the learned counsel for the claimants that the salary certificate was marked through the said Doctor, the same was not objected and the trial Court by relying on the evidence of P.W.3 and also the certificate issued in Ex.P.3 has fixed the income of the deceased as Rs.20,000/- and as such, the same cannot be found fault with.

15. The learned counsel for the appellant has not challenged the amounts awarded under the other heads, loss of consortium, loss of estate and funeral expenses. Though the appellant has taken a ground that the Tribunal has awarded Rs.3,96,482/- towards medical expenses, they have not elaborated anything further. The Tribunal taking note of the medical bills under Ex.P.3 and Ex.P.4 has rightly awarded Rs.3,96,482/- towards medical expenses and hence, the same cannot be found fault with. Hence, the total compensation awarded by the Tribunal is just and reasonable and the same cannot said to be excessive. Consequently, this Court concludes that the appeal is devoid of merits and the same is liable to be dismissed. Considering the other facts, this Court further decides that the parties are to be directed to bear their own costs.



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16. In the result, this Civil Miscellaneous Appeal is dismissed and the award, dated 12.01.2024 in M.C.O.P.No.66 of 2021 on the file of the Motor Accident Claims Tribunal cum Subordinate Judge, Aruppukottai, is confirmed. The appellant/Insurance Company is directed to deposit the entire award amount with accrued interests and costs, within a period of four weeks from the date of receipt of a copy of this order, if not already deposited and thereafter, recover the same from the sixth respondent. On such deposit being made, the claimants are permitted to withdraw their share as apportioned by the Tribunal, with accrued interests and costs. Parties are to be directed to bear their own costs. Consequently, connected Miscellaneous Petition is closed.

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NCC : Yes/No
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To

- 1.The Motor Accident Claims Tribunal
cum Subordinate Judge, Aruppukottai.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

das

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