

C.M.A.(MD)Nos.1125 & 1126 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 27.02.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)Nos.1125 & 1126 of 2024

and

C.M.P.(MD)No.11782 & 11784 of 2024

C.M.A.(MD)No.1125 of 2024

P.Ravikumar

... Appellant

Vs.

1. R.Muruganandham

2. M.Chitra

3. The Branch Manager,
The Reliance General Insurance Company Limited,
PLA Kanagaraj Towers,
Thillai Nagar,
Trichy.
(Amended as per order in I.A.No.420 of 2022 dated 14.03.2022)

4. N.Elango

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, to set aside the award made in M.C.O.P.No.679 of 2021 dated 05.04.2024 on the file of the Motor Accdient Claims Tribunal /



C.M.A.(MD)Nos.1125 & 1126 of 2024

Special District Court, Thanjavur.

WEB COPY

C.M.A.(MD)No.1126 of 2024

P.Ravikumar

... Appellant

Vs.

1. C.Ramaiyan

2. R.Jayanthi

3. The Branch Manager,
The Reliance General Insurance Company Limited,
PLA Kanagaraj Towers,
Thillai Nagar,
Trichy.
(Amended as per order in I.A.No.420 of 2022 dated 14.03.2022)

4. N.Elango

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, to set aside the award made in M.C.O.P.No.681 of 2021 dated 05.04.2024 on the file of the Motor Accdient Claims Tribunal / Special District Court, Thanjavur.

(In both cases)

For Appellant : Mr.P.Prabhakaran

For R-1 & 2 : Mr.N.Tamilmani

For R-3 & 4 : No appearance



C.M.A.(MD)Nos.1125 & 1126 of 2024

COMMON JUDGMENT

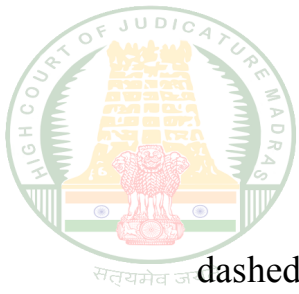
WEB COPY

These Civil Miscellaneous Appeals are filed challenging the award dated 05.04.2024 passed in M.C.O.P.Nos.679 and 681 of 2021 on the file of Motor Accdient Claims Tribunal / Special District Court, Thanjavur.

2. For the sake of convenience, the parties herein are referred to, as per their rank before the Tribunal.

3. The brief facts in a nutshell are as follows:

(i) The first respondent in M.C.O.P.Nos.679 and 681 of 2021 is the appellant herein and he is the owner of the four-wheeler involved in the accident. On 21.06.2021, one Sivaraman, while riding his unregistered new two-wheeler, a Passion Pro along with one Ranjith as pillion rider, was travelling at about 12:15 pm, along Kudavasal to Nannilam main road. As the vehicle neared Pidarikovil, in front of Mani's house, travelling from north to south along the left side of the road, the lorry bearing Registration No. TN-49-V-4448 owned by the first respondent, was driven by the third respondent driver in a rash and negligent manner. As a result of which



C.M.A.(MD)Nos.1125 & 1126 of 2024

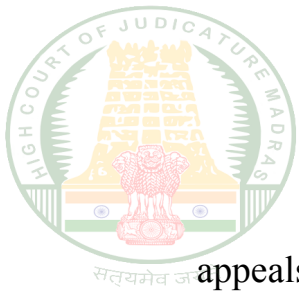
dashed against the two-wheeler and both the rider as well as the pillion rider were thrown out of the vehicle and died on the spot.

(ii) In this regard, a case in Crime No. 754 of 2021 came to be registered under Section 304 (A) of IPC by the jurisdictional police. Hence, claiming compensation for the death of their sons, the parents of the respective deceased persons, filed M.C.O.P.Nos.679 and 681 of 2021.

(iii) The learned Tribunal examined three witnesses and marked Ex.P.1 to Ex.P.15 on the side of the petitioners. However, on the side of the second respondent, one witness was examined and five documents were marked as Ex.R.1 to R5.

(iv) On the basis of the arguments raised by both parties and after perusing the documents and considering the evidence required by the respective parties, the Tribunal proceeded to fix the entire liability on the 1st respondent on the ground that the lorry owned by the first respondent was bereft of any valid insurance policy on the date of the accident. An award of Rs.20,78,600/- was granted separately to the claimants of each deceased person by the Tribunal.

(v) It is pertinent to mention here that the first and third respondent remained ex-parte throughout the trial before the Tribunal. Challenging the award, the first respondent / owner of the vehicle has filed these



C.M.A.(MD)Nos.1125 & 1126 of 2024

appeals.
WEB COPY

4. The learned Counsel appearing for the appellant / first respondent categorically submitted that the currency of the insurance policy with respect to his four-wheeler bearing Registration No.TN-49-V-4448 was obtained from the second respondent / Insurance Company, and the same has been duly marked by the claimant as Ex.P.4. The validity of the aforesaid policy was from 28.03.2021 to 27.03.2022, and the date of the accident was 21.06.2021. In view of the subsistence of a valid insurance policy with respect to the four-wheeler involved in the accident, the Tribunal ought not to have arrived at a compensation to be paid by the first respondent by fixing the entire liability on first respondent. On that basis, he pressed for setting aside of the award and the fixing of the entire liability on the second respondent. There is no representation on behalf of the Insurance Company before this court.

5. The learned Counsel appearing for the respondents 1 and 2 / claimants submitted that their rights should be protected and the award passed by the Tribunal should be properly directed to be paid to the claimants.

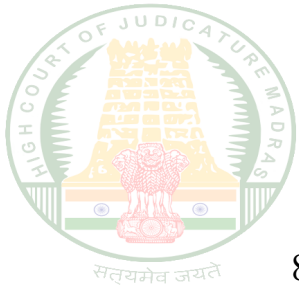


C.M.A.(MD)Nos.1125 & 1126 of 2024

WEB COPY

6. Heard the learned Counsel appearing for the appellants, the learned Counsels appearing for the respondents 1 and 2 and carefully perused the materials available on record.

7. No doubt, the insurance policy pertaining to the four-wheeler involved in the accident, bearing Registration No. TN-49-V-4448 was subsisting on the date of accident i.e., on 21.06.2021. The currency of the said policy was from 28.03.2021 to 27.03.2022. However, exclusively considering the fact that the owner and the driver of the four-wheeler i.e., first and second respondents, remained ex-parte throughout the trial and arguments before the Tribunal, the award passed by the Tribunal, fixing the entire liability on the first respondent, is not sustainable. When the currency of the insurance policy with respect to the vehicle involved was subsisting, the Tribunal ought to have passed an award directing the second respondent / Insurance Company to pay the entire award amount to the claimants. Therefore, this Court is modifying the award to the extent that the liability is to be fixed entirely on the second respondent / Insurance company. Accordingly, these Civil Miscellaneous Appeals are allowed.



C.M.A.(MD)Nos.1125 & 1126 of 2024

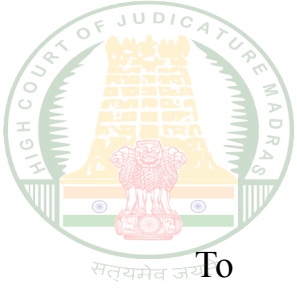
WEB COPY

8. The second respondent / Insurance Company is directed to deposit the compensation amount as awarded by the Tribunal with accrued interest and costs to the credit of M.C.O.P.Nos.679 and 681 of 2021 before the Motor Accident Claims Tribunal cum Special District Court, Thanjavur, within a period of four weeks (4) from the date of receipt of copy of this judgment. On such deposit, the claimants are permitted to withdraw the said amount, by making necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petitions are closed.

27.02.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes

jbr



C.M.A.(MD)Nos.1125 & 1126 of 2024

To

WEB COPY

1. The Motor Accident Claims Tribunal / Special District Court,
Thanjavur.

2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A.(MD)Nos.1125 & 1126 of 2024

L.VICTORIA GOWRI, J.,

jbr

C.M.A.(MD)Nos.1125 & 1126 of 2024

27.02.2025