



C.M.A(MD)Nos.1205 of 2022 & 1266 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2025

CORAM:

**THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

**C.M.A(MD)Nos.1205 of 2022 & 1266 of 2024
and
C.M.P(MD)Nos.12239 of 2022 & 13351 of 2024**

1.C.M.A(MD)No.1205 of 2022:

The Divisional Manager,
Reliance General Insurance Company Limited,
15-A, PLA Kanagu Towers,
2nd Floor, 11th Cross Street,
Thillai Nagar Main Road,
Trichy – 620 018. ... Appellant/2nd Respondent

Vs.

1.T.Senthil Kumar ... 1st Respondent/Petitioner

2.M.Guhan ... 2nd Respondent/1st Respondent

PRAYER:- Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Judgment and Decree passed in M.C.O.P.No.944 of 2019 on the file of the Motor

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Accident Claims Tribunal, Special Sub Court, Madurai dated 06.06.2022 and allow this Civil Miscellaneous Appeal.

For Appellant : Ms.K.R.Shivasankari

For R – 1 : Mr.S.Muthukumar

For R – 2 : Dispensed with

2.C.M.A(MD)No.1266 of 2024:

The Branch Manager,
Reliance General Insurance Company Limited,
1st Floor, Sri Meenakshi Plaza,
Plot No.HIG 55, 80 Feet Road,
Anna Nagar,
Madurai Town District – 625 020. ... Appellant/2nd Respondent

Vs.

1.M.Saravanakumari

2.Minor M.Mohanraj

... Respondents 1 & 2/
Petitioners 1 & 2

3.M.Guhan

... 3rd Respondent/
1st Respondent

PRAYER:- Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Award passed in M.C.O.P.No.124 of 2019 on the file of the Motor Accident Claims Tribunal, Special District Court (Additional District Court),
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Virudhunagar dated 29.02.2024 and allow this Civil Miscellaneous Appeal.

For Appellant : Ms.K.R.Shivasankari

For R – 1 & R – 3 : No appearance

COMMON JUDGMENT

(Judgment of the Court was delivered by G.K.ILANTHIRAIYAN, J.)

Both the appeals have been filed as against the claim petitions arising out of the same accident. Therefore, this Court passes a common order in both the appeals.

2.Both the appeals have been filed by the insurer of the offending vehicle involved in the accident.

3.C.M.A(MD)No.1205 of 2022 has been filed as against M.C.O.P.No. 944 of 2019 on the file of the Motor Accidents Claims Tribunal, Special Sub Court Madurai, filed by the injured pillion rider of the motor cycle.

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4.C.M.A.No.1266 of 2024 has been filed as against the award passed in M.C.O.P.No.124 of 2019 by the legal representatives of the deceased rider of the motor cycle.

5.In M.C.O.P.No.944 of 2019, the claimants examined PW1 and PW2 and marked Exs. P1 to P17 and the Court marked Ex.X1. On the side of the respondents, no one was examined and no document was produced.

6.On perusal of the oral and documentary evidence, the Tribunal awarded compensation to the tune of Rs.18,29,700/- with interest at the rate of 7.5% from the date of claim petition till the date of realization.

7.In M.C.O.P No.124 of 2019, the claimants examined PW1 and PW2 and marked Exs.P1 to P15. On the side of the respondents, no one was examined and no document was produced.



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8.On perusal of the oral and documentary evidence, the Tribunal awarded compensation to the tune of Rs.21,70,000/- with interest at the rate of 7.5% from the date of claim petition till the date of realization. Out of the said amount, the first claimant is entitled for a sum of Rs.13,70,000/- and minor second claimant is entitled for a sum of Rs.8,00,000/-.

9.Aggrieved by the same, the present appeals have been filed.

10.The learned counsel appearing for the appellants in both the appeals submitted that expect F.I.R. and charge sheet, no other documents were filed by the claimants in both the claim petitions to prove negligence on the part of the driver offending vehicle. Therefore, the claimants failed to establish negligence on the part of the appellant's driver. It was a case of head- on collision between the appellant's insured vehicle and the two-wheeler ridden by the



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deceased. Hence, the Tribunal ought to have apportioned negligence between the two wheeler as well as the insured vehicle of the appellant and the entire liability cannot be fastened upon the appellant's insured vehicle.

11.Apart from that, the award of compensation, in respect of the injured claimant is on the higher side under the head of partial permanent disability. The Tribunal ought not to have awarded any compensation towards loss of income. Under the head of pain and suffering also, the Tribunal awarded a sum of Rs.2,00,000/-, which is on the higher side.

12.On perusal of the records, it is seen that in order to challenge the negligence, the appellant neither examined any witness nor produced any evidence to establish contributor negligence on the part of the deceased or the rider of the two-wheeler. The F.I.R was registered on the complaint given by the rider of the insured vehicle



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in Crime No.21 of 2019 for the offences punishable under Sections 279, 338 and 304(A) of I.P.C on the file of the Inspector of Police, M.Pudhupatti Police Station, Virudhunagar District.

13.After completion of investigation, a final report was filed and the same was marked as Ex.P2 in M.C.O.P.No.944 of 2019. The driver of the insured vehicle was charged for the offences under Sections 279, 338 and 304(A) of I.P.C. The evidence shows that the rider of the motorcycle was riding on the left side of the road from North to South. At the same time, the offending vehicle, namely the appellant's insured vehicle, coming from the opposite direction from South to North near Thalikulathupatti Church on the Erichanatham-Subbulapuram Road, dashed against the motorcycle on its right side. Due to the impact, the rider sustained grievous injuries and died. The pillion rider sustained the following injuries:

- (i) fracture of shaft of femur (right) – comminuted,
- (ii) fracture of shaft of tibia D/3rd – comminuted; bicolumm



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fracture acetabulum right side, crush injuries with multiple meta
tarsal fracture right foot,

(iii) fracture 1st, 2nd, 3rd, 4th and 5th metatarsal in right foot,

(iv) right foot raw area wound and

(v) multiple grievous injuries, abrasions and contusions all
over the body.

He was immediately taken to Lakshmana Multi-Speciality Hospitals,
Madurai and treated as an inpatient from 29.01.2019 to 20.03.2019.

He underwent several surgeries. At the time of the accident, he was
running a readymade garments Shop in the name and style of 'City
Mens Wear', Peraiyur, earning Rs.45,000/- per month. Due to the
accident, he could not able to run the shop for an entire year. Hence,
the Tribunal rightly awarded compensation under the head of loss of
income at Rs.1,20,000/-. He also suffered 60% partial disability and
as such, the Tribunal rightly awarded a sum of Rs.3,60,000/- under
the said head. Based on the medical bills, a sum of Rs.10,49,300/-



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was awarded towards medical expenses. Considering his 51 days of inpatient treatment and continued treatment for nearly a year, the Tribunal rightly awarded a sum of Rs.2,00,000/- under the head of pain and suffering. Therefore, the Tribunal rightly fastened liability on the appellant's insured vehicle and awarded the compensation of Rs.18,28,700/- in M.C.O.P.No.944 of 2019.

14.Insofar as M.C.O.P.No.124 of 2019 is concerned, the deceased died in the accident at the age of 44 years and income was rightly fixed at Rs.15,000/- per month. By applying the principles laid down in the case of *Sarla Verma and others Vs. Delhi Transport Corporation and another* reported in **2009 (2) TNMAC 1 (SC)** and **National Insurance Company Limited Vs. Pranay Sethi and others** reported in **2017 (2) TN MAC 609 (SC)**, the Tribunal rightly deducted one-third towards personal and living expenses and awarded compensation of Rs.21,70,000/-.



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15.In view of the above, this Court finds no infirmity or illegality in the awards passed by the Tribunal to interfere with.

16.In fine, the award passed in M.C.O.P.No.944 of 2019 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Madurai dated 06.06.2022 and the award passed in M.C.O.P.No.124 of 2019 on the file of the Motor Accident Claims Tribunal, Special District Court (Additional District Court), Virudhunagar dated 29.02.2024 are confirmed. Both the Civil Miscellaneous Appeals are dismissed. The appellant is directed to deposit the entire award amount with interest and costs as awarded by the Tribunal, less the amount already deposited, to the credit of the claim petitions, within a period of six weeks from the date of receipt of a copy of this judgment, if not already deposited. On such deposit, the first respondent/major claimant in both the appeals are permitted to withdraw their respective shares with proportionate interest and costs by filing formal

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permission petition before the Tribunal. The share of the second respondent/minor claimant in C.M.A(MD)No.1266 of 2024 shall be deposited in a Nationalised Bank in a fixed deposit until he attains majority. The interest accruing on such deposit is permitted to be withdrawn by the 1st respondent/mother of the minor claimant in C.M.A(MD)No.1266 of 2024, once in three months directly from the bank. No costs. Consequently, connected Miscellaneous Petitions are closed.

**[G.K.I.J.] & [R.P.J.,]
05.12.2025**

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

- 1.The Motor Accident Claims Tribunal,
Special Sub Court,
Madurai.
- 2.The Motor Accident Claims Tribunal,
Special District Court (Additional District Court),
Virudhunagar.
- 3.The Record Keeper (Vernacular Records),
Madurai Bench of Madras High Court,
Madurai.



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

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