



CMA(MD)No.983 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :11.12.2025

CORAM:

THE HONOURABLE MR JUSTICE G.K.ILANTHIRAIYAN

AND

THE HONOURABLE MRS.JUSTICE N.MALA

CMA(MD)No.983 of 2022

and

CMP(MD)No.9724 of 2022

Reliance General Insurance Company Ltd.,
Through its Branch Manager,
184/9B/7 VVD Main Road,
Near State Bank of India,
Tudicorin Town,
Tudicorn District.

: Appellant/Respondent No.2

Vs.

1.Ravi
2.Chithra
3.Saranya
4.Viji
5.Muheshbabu
6.Manojkumar

: Respondents 1 to 5/Petitioners

: 6th Respondent/R1

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act to set aside the judgment and decree, dated 08/07/2022 passed in MCOP No.1 of 2018 on the file of the Motor Accident Claims Tribunal (Additional District Judge/ Additional District Court), Sivagangai.



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For Appellant : Mr.V.Sakthivel
For R1 to R5 : Mr.K.Sekar

JUDGMENT

[Judgment of the Court was made by **N.MALA, J.**]

This Civil Miscellaneous Appeal has been preferred against the judgment and decree, dated 08/07/2022, passed in MCOP No.1 of 2018 by the Motor Accident Claims Tribunal (Additional District Court), Sivagangai, thereby awarding compensation of Rs.19,35,400/- together with interest at the rate of 7.5% per annum from the date of the petition till deposit, with proportionate costs.

2.The second respondent/Insurer of the vehicle is the appellant before this Court. The appeal is filed challenging only the negligence fixed on the part of the offending vehicle.

3.The brief facts leading to the appeal are as follows:-

On 09/11/2017, when the first respondent was riding a two wheeler bearing registration No.TN-63-BA-5635 on route Trichy to



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Perambalur, the vehicle met with an accident, resulting in the death of the pillion rider namely Madhubalan . The legal heirs of the deceased therefore filed the claim petition, claiming a sum of Rs.35,00,000/- with interest at the rate of 9%.

4.The Appellant/second respondent filed a counter denying the entire averments made in the claim petition. Apart from stating that at the time of the accident, the rider of the two wheeler namely the 6th respondent, did not possess valid and effective driving licence to drive the vehicle, the age and occupation of the deceased was also denied.

5.Before the Tribunal, on the side of the claimants, two witnesses were examined as PW1 and PW2 and 19 documents were marked as Exs.P1 to P19. On the side of the respondents, no oral or documentary evidence was adduced .

6.The Tribunal, after framing necessary points for consideration, found that the accident occurred only due to the negligence of the rider



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of the two wheeler and therefore awarded compensation of Rs.19,35,400/- together with interest @ 7.5% per annum.

7.Challenging the award, the Insurance Company has filed the present appeal.

8.The learned counsel for the appellant submitted that the Tribunal failed to note that at the time of the accident, the deceased was not wearing a helmet and therefore, he contributed to the accident. The learned counsel submitted that had the deceased worn a helmet, he would not have died of head injuries. The learned counsel therefore submitted that the liability should be apportioned and 10% of the compensation should be deducted towards contributory negligence of the deceased.

9.Per contra, the learned counsel for the respondents 1 to 5/claimants submitted that absolutely no pleading was raised before the claims tribunal regarding the contributory negligence of the



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deceased. The learned counsel further submitted that lack of pleadings deprived the respondents 1 to 5/claimants of an opportunity to establish that there was no contributory negligence.

10. Heard both sides and perused the materials available on record.

11. As rightly contended by the learned counsel for the claimants, there is absolutely no whisper in the counter of the appellant regarding the contributory negligence of the deceased, in not wearing a helmet. In the absence of such pleadings, as rightly contended by the learned counsel for the claimants, they could not contest the case on contributory negligence before the Tribunal. Since no pleadings were raised, the tribunal had no opportunity to render finding on contributory negligence. Hence, this Court does not find any infirmity in the finding of the tribunal on negligence.



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12. In the result, this Civil Miscellaneous Appeal fails and the same is **dismissed**. No costs. Consequently, connected Miscellaneous Petition is closed.

[G.K.I., J.] [N.M., J.]

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Index : Yes / No
Neutral Citation : Yes / No
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To,

1. The Motor Accident Claims Tribunal
(Additional District Court),
Tuticorin.

2. The Section Officer,
VR/ER Section,
Madurai Bench of Madras High Court,
Madurai.



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