



C.M.A(MD)No.908 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.12.2025

CORAM:

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

**C.M.A(MD)No.908 of 2023
and
C.M.P(MD)No.12933 of 2023**

The Oriental Insurance Company Limited,
Represented through its Branch Manager,
Door No.6, D.P.Mills Road,
Sanjeevinathapuram,
Rajapalayam,
Virudhunagar District.

... Appellant/4th Respondent

-VS-

1.Vijaya	...1 st Respondent/Petitioner
2.Murugan	...2 nd Respondent/1 st Respondent
3.S.Sri Ramulu	...3 rd Respondent/2 nd Respondent
4.M.Rajesh	...4 th Respondent/3 rd Respondent



C.M.A(MD)No.908 of 2023

5. Tamil Nadu State Transport Corporation,
Madurai Limited,
Dindigul Region,
Represented through its
Managing Director,
Bye Pass Road,
Collectorate Post,
Dindigul. 5th Respondent/5th Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, to set aside the judgment and decree dated 27.04.2023 passed in M.C.O.P.No.107 of 2019, on the file of the Motor Accidents Claims Tribunal/Additional District Court, Srivilliputhur, Virudhuangar District.

For Appellant : Mr.A.Ilango

For R - 1 : Mr.K.Kasirasan
for Mr.M.Thirunavukkarasu

For R2 & R3 : Unserved

For R4 & R5 : No appearance

JUDGMENT

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

This Civil Miscellaneous Appeal has been preferred as against the award passed in M.C.O.P.No.107 of 2019, dated



C.M.A(MD)No.908 of 2023

WEB COPY

27.04.2023 on the file of the Motor Accidents Claims Tribunal/Additional District Court, Srivilliputhur, Virudhuangar District.

2.The appellant is the insurer of the car owned by the second respondent herein. The first respondent is the claimant.

3.On 13.03.2016 at about 03.00 p.m., when the deceased was travelling as a pillion rider on a motorcycle driven by his friend in a TVS Heavy duty two-wheeler bearing Registration No.TN-67-AL-5478 on the Rajapalayam to Srivilliputtur Main Road from west to east, proceeding on the extreme left side of the road, the car owned by the second respondent herein and driven by the first respondent in the same direction, in a rash and negligent manner, dashed against the motorcycle. As a result, the rider as well as the pillion rider fell down on the road. At that juncture, the State Transport Corporation Bus bearing Registration No.TN-57-N-2107,

3/10



C.M.A(MD)No.908 of 2023

WEB COPY

owned by the fifth respondent herein, was driven by its driver from the opposite direction and ran over the rider and pillion rider of the motorcycle. Consequently, both of them died on the spot. The first respondent, being the legal representative of the deceased pillion rider, filed the claim petition.

4.In order to prove the claim, the claimant examined P.W.1 and P.W.2 and marked Exs.P1 to P11. On the side of the respondents, the fifth respondent was examined as R.W.1 and Ex.R.1.

5.On perusal of the oral and documentary evidence, the Tribunal found that the accident occurred due to the rash and negligent driving of the first respondent's car and accordingly awarded compensation. Aggrieved by the same, the insurer of the first respondent's car filed the present appeal.



C.M.A(MD)No.908 of 2023

WEB COPY

6.The learned counsel appearing for the appellant submitted that though the two-wheeler and the car were proceeding in the same direction, when the rider of the two-wheeler attempted to overtake the car, he hit the rear side of the car and fell down on the right side. At that juncture, the bus which was coming from the opposite direction ran over them, causing grievous injuries which resulted in their death on the spot. It was contended that there was absolutely no negligence on the part of the second respondent while driving the car. As per the Motor Vehicle Inspection Report, the rear side of the car was damaged. He also relied upon the Motor Vehicle Inspection Report of the two-wheeler to show that its left hand side bumper and rear portion were damaged. Therefore, there was no possibility of the car hitting the motor cycle from behind. The entire negligence was on the part of the rider of the two-wheeler, who dashed against the rear side of the car, due to which both fell down on the right side. He further relied upon the rough sketch.



C.M.A(MD)No.908 of 2023

WEB COPY

7.Per contra, the learned counsel appearing for the claimant submitted that even assuming that there was any negligence on the part of the rider of the motor cycle, no negligence can be attributed to the pillion rider. Therefore, the claimant, being the legal representative of the deceased pillion rider, is entitled to compensation.

8.Heard the learned counsel appearing on either side and perused the materials placed on record.

9.Immediately after the accident, based on the complaint, an F.I.R was registered, which was marked as Ex.P.1. Subsequently, after completion of the investigation, a charge sheet was filed and the drivers of the second respondent's car and fifth respondent's bus were acquitted in C.C.No.251 of 2016 by order dated 15.12.2021 on the file of the Judicial Magistrate No.II, Srivilliputhur. Further, the Motor Vehicle Inspection Report of the two-wheeler and the rough



C.M.A(MD)No.908 of 2023

WEB COPY

sketch were not marked before the Tribunal. Therefore, the appellant failed to substantiate its contention before the Tribunal by any acceptable evidence. Though the driver of the car and the State Transport Corporation bus driver were acquitted by the criminal Court, it does not necessarily mean that the accident did not occur due to negligence on the part of the second respondent herein. In fact, both the second respondent and the fifth respondent's driver were charge-sheeted and tried before the criminal Court. No F.I.R was registered as against the rider of the motor cycle.

10.The eye witnesses to the accident was examined as PW2. He categorically deposed that the appellant's car was driven in a rash and negligent manner in the same direction as the motor cycle and hit the motor cycle from behind. Consequently, the rider and the pillion rider of the motor cycle fell down on the right side of the road, at that juncture, the fifth respondent's bus coming from the opposite direction ran over them.

7/10



C.M.A(MD)No.908 of 2023

WEB COPY

11.As rightly pointed out by the learned counsel appearing for the claimant, the claimant is none other than the legal representative of the deceased pillion rider. Even assuming that there was any negligence on the part of the motor cycle, no negligence can be attributed to the pillion rider. Therefore, the pillion rider cannot not be fastened with any contributory negligence and is entitled to compensation from any one of the tort-feasors. Since the rider of the motor cycle also succumbed to the injuries sustained in the accident, the claimant is at liberty to proceed against any one of the tort-feasors. Therefore, the Tribunal rightly awarded the compensation and there is no ground to interfere with the award passed by the Tribunal.

12.In fine, the award passed in M.C.O.P.No.107 of 2019, dated 27.04.2023 on the file of the Motor Accidents Claims Tribunal/Additional District Court, Srivilliputhur, Virudhuangar District, is confirmed. Accordingly, this Civil Miscellaneous Appeal



C.M.A(MD)No.908 of 2023

WEB COPY

is 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 petition, 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 respondent is permitted to withdraw the same with proportionate interest and costs by filing formal permission petition before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

**[G.K.I.J.] & [R.P.J.,]
12.12.2025**

NCC :Yes/No

Index :Yes/No

Internet :Yes

ps

To

1.The Motor Accident Claim Tribunal
Additional District Court, Srivilliputhur,
Virudhuangar.

2.The Record Keeper (Vernacular Records),
Madurai Bench of Madras High Court,
Madurai.

9/10



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C.M.A(MD)No.908 of 2023

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C.M.A(MD)No.908 of 2023

12.12.2025