



CMA.(MD)No.1275 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 04/12/2025

CORAM

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

CMA(MD)No.1275 of 2023

and

CMP(MD)No.17063 of 2023

The Branch Manager,
Reliance General Insurance Company Limited,
Sathi Super Market, 3rd Cross,
No.408, Perundurai Road,
Erode-638 011.

: Appellant/2nd Respondent

Vs.

1.Paulraj

2.Santhi

3.Vichitra

4.Minor Cibil

(Minor represented through Guardian
and Mother 3rd respondent herein)

: Respondents 1 to 4/
Petitioners 1 to 4

5.Vigneswar

: 5th Respondent/5th Respondent

PRAYER:-Civil Miscellaneous Appeal is filed under section 173
of the Motor Vehicles Act, 1988, to set aside the award passed in MCOP



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No.116 of 2022 on the file of the Motor Accident Claims Tribunal
(Principal District Judge), Karur, dated 25/04/2023.

For Appellant : Mrs.K.R.Shivashankari

For R1 to R4 : Mr.M.Vivek

For 5th Respondent : No appearance

J U D G M E N T

(Judgment of the Court was made by the Hon'ble **R.POORNIMA.J**)

This Civil Miscellaneous Appeal is preferred by the Insurance Company against the award passed in MCOP No.116 of 2022, dated 25/04/2023 by the Motor Accident Claims Tribunal/Principal District Judge, Karur.

2.The brief case of the claimants is as follows:-

On 08/07/2021 at about 08.45 pm, when the deceased Dhamotharan was riding his Splendor Plus Bike No.TN-47-Z-2075 on the Puliur to Uppidamangalam Road near Uppidamangalam burial ground from north to south direction on his extreme left side of the road, a Lorry No.TN-39-AJ-6117 came in a rash and negligent manner in the

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same direction and hit behind the deceased Dhamotharan. Due to the accident, he sustained several injuries on his head, face and injuries all over the body and succumbed to injuries.

3.Over the occurrence, a case in Crime No.311 of 2011 was registered by the Velliyanai Police Station for the offences under Sections 279 and 304(A) IPC.

4.At the time of the accident, the deceased was aged about 33 years and was working in Asine Tex, Karur and earning Rs.25,000/- per month. Claiming compensation of Rs.35,00,000/-, a claim petition was filed by the legal-heirs of the deceased in MCOP No.116 of 2022.

5.Resisting the claim petition, the Insurance Company filed a counter affidavit disputing the manner of accident and also their liability to pay the compensation to the claimants.

6.Before the Tribunal, on the side of the claimants, 2 witnesses were examined as PW1 and PW2 and 17 documents were marked as



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Ex.P1 to P17. On the side of the respondents, no oral and documentary evidence was adduced.

7.At the conclusion of the enquiry, the Tribunal found that the occurrence took place due to the rash and negligent act on the part of the offending Lorry, hold the negligence upon the driver of the lorry. The total compensation amount was also calculated as per the settled proposition of law at **Rs.64,73,700/-**.

8.Against which, the appellant insurance company has preferred this appeal on the ground that the Tribunal failed to properly appreciate the manner of the accident in the proper perspective before fixing the entire negligence on the driver of the Lorry and the Tribunal failed to fix contributory negligence on the part of the rider of the two wheeler.

9.Heard the learned counsel on either side and perused the material available on records.

10.The occurrence took place on 08/07/2021 at about 08.45 pm. It



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is not disputed that the date of accident and that over the occurrence criminal case was lodged against the driver of the insured lorry.

11.It is seen from the records that the driver of the lorry which was proceeding ahead of the motorcycle ridden by the deceased was suddenly stopped by its driver without any signal, resulting in the accident. To substantiate the same, on the side of the claimants, P.W.2 an eye witness was examined, he was travelling in another vehicle behind the deceased at the time of the accident. He has categorically stated that the driver of the lorry suddenly applied brake and stopped the lorry without any signal and consequently, the deceased collided with the rear side of the lorry. The respondents did not examine the driver of the lorry or any eye witness to rebut the testimony of PW2. Further an FIR was registered against the driver of the lorry. The Tribunal accepted the evidence of P.W.2 the eye witness and also relied upon the FIR, fixed the entire negligence on the part of the driver of the lorry.

12.It is settled principle that a person travelling behind another vehicle must maintain a safe and reasonable distance. Failure to do so



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amounts to negligence, as it expose the following vehicle to the risk of collision in the event of sudden braking by the vehicle in front. Had the deceased maintained a safe distance from the vehicle proceeding ahead, the accident could have been avoided and the deceased would have survived. Therefore this Court fixed 10% contributory negligence on he part of the deceased.

13.As far as quantum of compensation is concerned, the claimants claimed that the deceased was working in Asine Tex, Karur and was earning a sum of Rs.25,000/- per month. However, the Tribunal after considering Ex.P9 Salary Slip and Ex.P10-Savings Bank Account statement, fixed the monthly salary as Rs.31,730/-, which is proper. The deceased was aged 34 years at the time of the accident. The tribunal has added 40% enhancement towards future prospects. The Tribunal applied multiplier '16' as per the Second Schedule. The Tribunal has rightly deducted 1/4th towards personal expenses of the deceased. In view of the same, the tribunal awarded Rs.63,96,700/- towards loss of income. In respect of other conventional heads, the tribunal has totally awarded Rs.77,000/-. This Court is of the considered view that Rs.64,73,700/-



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awarded by the tribunal as total compensation is just and reasonable and the same is hereby confirmed.

14.As discussed above, this Court fixed 90% negligence on the part the offending vehicle and 10% on the part of the deceased and so, the compensation awarded by the tribunal is re-quantified as under:-

Description	Amount awarded by the Tribunal (Rs.)	Amount Awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced
Loss of Income	63,96,700/-	63,96,700/-	Confirmed
Consortium to the 3 rd claimant	44,000/-	44,000/-	Confirmed
Loss of estate	16,500/-	16,500/-	Confirmed
Funeral expenses	16,500/-	16,500/-	Confirmed
Total	64,73,700/-	64,73,700/-	Confirmed
90% contributory negligence		58,26,330/-	

15.In the result, this Civil Miscellaneous Appeal is **partly allowed** and the compensation awarded by the Tribunal at Rs.64,73,700/- is hereby reduced to **Rs.58,26,330/-** together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The



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appellant Insurance Company is directed to deposit the modified amount now determined by this Court along with interest and costs, less the amount already deposited if any, within a period of eight weeks from the date of receipt of a copy of this Judgement. On such deposit, the respondents 1 to 3/claimants 1 to 3 are permitted to withdraw their share amount on the basis of the apportionment fixed by the Tribunal along with proportionate interest and costs, less the amount if any already withdrawn by filing necessary applications before the Tribunal. The share of the minor 4th respondent/minor 4th claimant is directed to be deposited in any one of the Nationalised Bank till he attains majority. The 3rd respondent/3rd claimant being the mother of the 4th minor claimant is permitted to withdraw the accrued interest once in three months for the welfare of the minor. Excess amount if any, shall be returned to the appellant Insurance Company. No costs. Consequently connected Miscellaneous Petition is closed.

(G.K.I.J) (R.P.J.,)
04/12/2025

Index:Yes/No
Internet:Yes/No
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To,

1.The Motor Accident Claims Tribunal/
Principal District Court, Karur.

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



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

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