

C.M.A.(MD)No.112 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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Dated : 08.04.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.112 of 2025

and

C.M.P.(MD)No.1848 of 2025

The Deputy Director,
Horticulture Department,
No.19, Yesuvadiyan Street,
Nagercoil, Agastheeswaram Taluk,
Kaniyakumari District.

... Appellant

Vs.

1.R.Libin

2.P.J.Johny

3.M.Iyyappan

Pugalendi (Died)

4.Ebin

5.The New India Assurance Company Limited,
Billers Gate, Anna Stadium Opposite,
Nagercoil, Agastheeswaram Taluk,
Kaniyakumari District.

... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, amended by Motor Vehicles (Amendment) Act, 1994, to



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set aside the judgment and decree passed in M.C.O.P.No.161 of 2017 dated 12.12.2022, on the file of the Motor Accident Claims Tribunal Authority cum the Ist Additional Subordinate Court, Nagercoil, dated 12.12.2022.

For Appellant	: Mr.K.Gnanasekaran, Government Advocate (Civil)
For R1	: Mr.R.Murugan
For R2	: Mr.K.Hariharan
For R4	: Mr.G.Ravishankar
For R5	: Mr.A.Ilango
For R3	: No Appearance

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant, challenging the award passed by the learned Motor Accident Claims Tribunal (I Additional Subordinate Judge), at Nagercoil, in M.C.O.P.No.161 of 2017, dated 12.12.2022.

2.For the sake of convenience, the parties are arrayed herein as per the ranking in M.C.O.P.No.161 of 2017.

3.The factual matrix of the present case, briefly stated, are as under:-

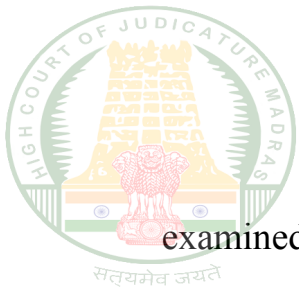
The petitioner is the claimant, the first respondent is the driver of the departmental jeep and the second respondent is the owner of the two wheeler. The third respondent is the driver of Ford Icon car involved. The fourth



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respondent is the owner of the third respondent vehicle. The fifth respondent is the owner of the two wheeler, in which the claimant had travelled as pillion rider. The sixth respondent is the insurance company with which Ford and the two wheeler was insured. On 05.12.2016, the claimant driven as pillion rider in a two wheeler bearing registration No.TN-75-Y-5638, at about 11.30 a.m., and when the two wheeler reached Puliyurkuruchi, the second respondent had driven the departmental jeep bearing registration No.TN-74-G-0158 in a rash and negligent manner and tried to overtake the bus which was plied before the same. After overtaking the bus, negligently the jeep dashed against the motorcycle, which was driven by the rider of the motorcycle in the left side of the road. As the result, the pillion rider/claimant was thrown from the vehicle and fell before the fourth respondent's vehicle, in which the rider of the two wheeler died on the spot and the claimant had sustained bone fractures. He was immediately taken to Marthandam Shallom hospital and he underwent treatment from 05.12.2016 to 12.12.2016. In this regard, FIR was registered as against the driver of the departmental jeep. Seeking to compensate the injuries sustained, the claimant has laid M.C.O.P.

4.The learned Tribunal has examined two witnesses and 14 documents were marked on the side of the petitioner/claimant and one witness was



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examined and no document was marked on the side of the respondents. One

Court document was marked. On the basis of the arguments, evidence deposed and documents marked, the learned Tribunal has proceeded to fix contributory negligence on the part of the rider of the two wheeler and the driver of the departmental jeep equally as 50% - 50% negligence and passed an award of Rs.3,09,365/- to the petitioner/claimant. Challenging 50% of negligence on the driver of the department, this Civil Miscellaneous Appeal is filed.

5.Heard the learned counsel for the appellant, the learned counsel for the respondents and carefully perused the materials available on record.

6.The learned counsel appearing for the appellant submitted that the accident had happened entirely on the negligence and rashness of the rider of the two wheeler and the driver of the departmental vehicle ought not to be fastened with 50% negligence. However, the nature of the accident itself would suffice to prove that there is no wrong on the part of the Tribunal for having awarded 50 – 50 % liability on the rider of the two wheeler and the driver of the departmental jeep.

7.In view of the same, the Civil Miscellaneous Appeal is dismissed and



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the award passed by the learned Tribunal is confirmed.

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8.The 1st respondent/claimant is entitled to the award amount with interest at the rate of 7.5% from the date of the claim petition till the date of realization. The appellant and fifth respondent are directed to deposit the award amount equally with 7.5% interest from date of the claim petition till the date of realization and the amount if not deposited earlier, has to be deposited within a period of 12 weeks from the date of receipt of copy of this order. On such deposit, the 1st respondent/claimant is permitted to withdraw the award amount, after deducting any amount received by him earlier. The 1st respondent/claimant is not entitled for interest for the default period, if there is any. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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



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To

- 1.The Motor Accidents Claims Tribunal,
II Additional Sub Court, Nagercoil.
- 2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

Mrn

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