



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 05.12.2025

PRONOUNCED ON : 06.01.2026

CORAM:

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

CMA No. 2087 of 2021
And
C.M.P.No. 11365 of 2021
And
CMA No. 810 of 2020
And
C.M.P.No. 5208 of 2020

C.M.A.No. 2087 of 2021

The Branch Manager
United India Insurance Company Limited
No.22, BPR Sundram Iyer Street
Dharmapuri – 636 701.

... Appellant/Respondent - IV

Vs

P.Suresh (died)
S/o. Pandian

1. Malathi
W/o. Late Suresh
2. Minor Priyadharshini



D/o. Late Suresh

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3. Minor Priyadharshan
S/o. Late Suresh

4. Kala
W/o. Pandian

5. Pandian
S/o. Perumal

...Respondents 1-5/Respondents 1 -5

6. P.Sathish
S/o. Pandian

... Respondent 6/Respondent

7. The National Insurance Company Limited
Divisional Office X,
Hero Honda Vertical 101-106,
BMC House, Connaught Place,
New Delhi – 110 001.

... Respondent 7 /Respondent-7

8. P.Ramesh Babu
S/o. Pandian

... Respondent 8/Respondent 8

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 against the Judgment and Decree passed in M.C.O.P.No. 390 of 2017 on 09.09.2019 on the file of the learned Motor Accidents Claims Tribunal, (Additional District Judge), Hosur.

For Appellant : Mr. J.Chandran

For RR 1 to 5 : Mr. C.Munusamy



For 7th Respondent: Mr.S.Arun Kumar

WEB CO **C.M.A.No. 810 of 2020**

The National Insurance Company Limited
Divisional Office X,
Hero Honda Vertical 101-106,
BMC House, Connaught Place,
New Delhi – 110 001.

... 2nd respondent/Appellant

Vs

P.Suresh (died)
S/o. Pandian

... Petitioners/Respondents 1 to 5

1. Malathi
W/o. Late Suresh
2. Minor Priyadharshini
D/o. Late Suresh
3. Minor Priyadharshan
S/o. Late Suresh
4. Kala
W/o. Pandian
5. Pandian
S/o. Perumal
6. P.Sathish
S/o. Pandian
7. P.Ramesh Babu

... 1st Respondent to 6th Respondent

... 3rd Respondent /7th Respondent



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8. The Branch Manager
United India Insurance Company Limited
No.22, BPR Sundram Iyer Street
Dharmapuri – 636 701.

... 4th Respondent/8th Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 against the award dated 09.09.2019 made in M.C.O.P.No. 390 of 2017 on 09.09.2019 on the file of the learned Motor Accidents Claims Tribunal, (Additional District Judge), Hosur.

For Appellant : Mr. S.Arun Kumar

For 1st Respondent : Mr. C.Munusamy

For 8th Respondent: Mr.J.Chandran

COMMON JUDGMENT

(Order of the Court was made by **C.V.KARTHIKEYAN, J.**)

Both the Civil Miscellaneous Appeals arise from the award dated



09.09.1990 in M.C.O.P.No. 390 of 2017 on the file of the MACT, Additional District Court, Hosur.

2. C.M.A.No. 810 of 2020 had been filed by the second respondent / the National Insurance Company Limited, New Delhi. C.M.A.No. 2087 of 2021 had been filed by the fourth respondent, the Branch Manager, United India Insurance Company Ltd., Dharmapuri.

3. M.C.O.P.No. 390 of 2017 had been filed by P.Suresh under Section 166 of the Motor Vehicle Act 1988 for injuries suffered in an accident on 20.06.2016 at about 18.30 hours in Krishangiri to Dharmapuri National Highways Road, opposite to Bysuhalli PACB. The accident occurred when the petitioner was preceding in a Hero Splendour Plus motor cycle belonging to the first respondent, P.Sathish, his brother under course of employment while taking the spares of the lorry belonging to his own brother. The lorry had broken down. Owing to the accident, the following injuries had been sustained:-

1. *Fracture of cervical vertebra +++ and unstable spine.*
2. *Fracture of C4 & C5 vertebra bodies*



with bilateral facet joint sub lexation with focal cord compression cordedema and cord hemorrhage.

4. It was stated that the injuries had caused permanent disability. During the pendency of the petition, the petitioner died and his legal representatives have been brought on record. The petition was therefore suitably amended seeking compensation for the death due to accident of the first petitioner.

5. A counter affidavit was filed by the first respondent stating that the petitioner did not notice a stray dog crossing the road and skidded and fell down and sustained injuries. The petitioner was working as Lorry driver under Thirumurugan Transports, Dharmapuri. The lorry was owned by the first respondent. The motorcycle was also owned by the first respondent. The lorry bearing registration No. Ka-01-AB-3020 had a break down between Krishnagiri to Dharmapuri. The motor cycle bearing registration bearing No. TN-29-BC-5181 was insured with the second respondent / National Insurance Company Ltd., New Delhi. The lorry was insured with the fourth respondent/United India Insurance Company.



6. The second respondent/National Insurance Company had filed a counter affidavit stating that with respect to the accident, FIR in Crime No. 393 of 2018 had been registered under Sections 279 and 337 of IPC by Karimangalam Police Station and was closed on 10.01.2018 under Section 468 Cr.P.C. The petitioner Suresh died on 09.02.2018 during the pendency of the injury claim. It was denied that the accident occurred in the course of employment. It was denied that the second respondent was liable to pay compensation for the death of the petitioner. It has been stated that he died owing to his own tort and no other vehicle was involved in the accident.

7. The fourth respondent also filed a counter affidavit stating that the Lorry bearing Registration No. KA-01-3020 suffered a break down and the accident of the petitioner occurred when a stray dog suddenly crossed the road and the petitioner skidded and fell down on the road. It was stated that the entire claim was false and that he died owing to rash and negligent driving. It had been stated that the fourth respondent was not liable to pay any compensation. The Tribunal by an award dated 09.09.2019 had directed the second and fourth respondents to pay compensation at Rs.36,04,456/- to the petitioners. The second respondent was liable to pay compensation of



40% and the fourth respondent was liable to pay compensation of 60%.

Challenging that particular award, the present Appeals had been filed by the second respondent and the by the fourth respondent.

8. The learned counsels for the two appellants argued that the accident occurred owing to the rash and negligent self driving of the deceased. It was pointed out that though the accident was said to have occurred on 20.06.2016, the complaint was lodged only on 27.07.2016, after more than 45 days from the date of the accident. The claim that the petitioner died during the course of his employment was denied. It was stated that the entire claim of the petitioner is based on falsity. Both the learned counsels contended that there employer and employee relationship was not established for the claim to be given by the Insurance Company of the lorry. It was also claimed that since the petitioner died while driving in a rash and negligent manner, the insurance company of the motorcycle was also not liable to pay any compensation. The claim that the accident occurred since a stray dog crossed the road was vehemently denied and disputed.

9. The learned counsel for the claim petitioner however pointed out the facts of the case and argued that the accident occurred only to the



crossing of stray dog when the deceased was driving in a motorcycle insured with the second respondent while in the course of employment taking spare parts of the lorry which was insured with the fourth respondent as the lorry had suffered a break down. The learned counsel stated that the Tribunal had considered all material facts and therefore stated that both the Appeals should be dismissed.

10. During the course of argument, reference was also made by the learned counsels for the appellants to the accident register which stated that the accident occurred owing to self fall from two wheeler.

11. We have carefully considered the arguments advanced and perused the materials available on records.

12. The petitioner P.Suresh, who was in a coma stage at the time of filing of the petition had claimed compensation for injuries suffered while driving motorcycle bearing Registration No. TN-29-BC-5181 in the Krishnagiri to Dharmapuri National Highway Road, Byshuvalli PACB. During the course of the petition, he died and his legal representatives have



been brought on record. The accident occurred on 20.06.2016. The accident register which had been marked as Exs. P-2 show that the accident occurred owing to self fall. Subsequently on 27.07.2016, a complaint had been lodged with the Karimangalam police station and in the complaint, it had been stated that the petitioner, who subsequently died was driving the motorcycle since the lorry bearing Registration No. KA-01-3020 had suffered a break down and he was carrying the spare parts. It was contended that he therefore died during the course of employment.

13. In the FIR, it had been stated that a stray dog crossed the street and as a result of which, the motorcycle skidded and he fell down and suffered serious injuries. The nature of the injuries were as follows:-

- 1. Fracture of cervical vertebra +++ and unstable spine.*
- 2. Fracture of C4 & C5 vertebra bodies with bilateral facet joint sub lexation with focal cord compression cordedema and cord hemorrhage.*

14. The Tribunal had held that by the evidence of PW-1 and PW-2, the fact that the deceased was travelling in the motorcycle had been established and that he so travelled only to purchase spare parts for the lorry



belonging to the third respondent and insured with the fourth respondent.

He was proceeding in the two wheeler belonging to the first respondent as instructed by the first respondent. It was therefore held that owing to the said accident, the insurance companies for the motorcycle and the lorry were liable to pay the compensation claimed.

15. During the course of arguments, no contention had been raised regarding the quantum but however, very serious objections have been raised about the genuinity of the claim.

16. The points for determination are whether the deceased died during the course of employment and whether he died owing to self skidding of the motorcycle.

17. According to the FIR, Ex.P-1, the petitioner while driving the motorcycle had skidded when a stray dog crossed the road. He fell down. Though it is too remote to find out whether the said fact is right or wrong, it is a fact the petitioner had skidded and fell down. Whether it was owing to the stray dog or not is a mute question. The motorcycle was insured with the second respondent. The other aspect is that he was going to purchase



20. PW-1 was widow of the petitioner but the best evidence in this regard should have been the statements of either the first respondent or the third respondent. For some unknown reasons, though they were brothers of the deceased, they had not come forward to tender evidence. In such circumstances, it will be extremely difficult and in the absence of any material to hold that the deceased petitioner was under the employment of the first respondent or under the third respondent. The point framed in that regard is answered accordingly.

21. The appellants have not questioned the quantum granted. The claimants have also not filed any appeal questioning the quantum granted. However, there is no dispute that the deceased died due to self skidding. The policy does not disclose Personal Accident Cover. The second point is answered that the deceased died owing to self skidding and since there was no Personal Accident Cover, the appellants cannot be held liable.

22. Both the Appeals are allowed. The directions issued by the Tribunal regarding compensation and apportionment of compensation are set aside. The appellants are entitled for return of any amount deposited. No order as to costs.

[C.V.K., J.]

[K.B., J.]

06.01.2026

Index: Yes/No



Internet: Yes/No

Neutral Citation: Yes/No

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To:

Additional District Court
Motor Accidents Claims Tribunal, Hosur.

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AND
K.KUMARESH BABU, J.

vsg

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