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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-10-2026

CORAM

THE HON'BLE MR JUSTICE M.DHANDAPANI
AND
THE HON'BLE DR.JUSTICE A.D.MARIA CLETE

C.M.A.No.1387 of 2023
and
C.M.P.No.13852 of 2023
CNR:{HCMA010231972023}

Shriram General Insurance Co. Ltd.,
Represented by its Branch Manager,
1st Floor, Front Portion,
No.5-F, Sachin Flaza,
Reddiyar Block No.1,
Salem Town – 636 016. ... Appellant

Vs

M.Elango (Died)

1. Chandira

2. Minor Serenjeevi
3. Minor Pradeep
   Minors Rep. by NF Mother Chandira

4. Murugesan
5. G.Lakshmanan

6. The Superintendent of Police,
   Dharmapuri.
   [R6 *Suo-motu* impleaded vide court order dated 28/07/2023 made in CMA No.1387 of 2023] ... Respondents

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Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the award dated 06.09.2022 passed in M.C.O.P.No.1689 of 2014 on the file of the learned Motor Accident Claims Tribunal, Chief Judicial Magistrate, Dharmapuri.

For Appellant : Mr.B.Siva Kollapan

For Respondents : Mr.P.Mani [R1 to R4]
No appearance [R5]
Mr.Karthick Selvaraj
Additional Government Pleader (CS) [R6]

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JUDGMENT

(Judgment of the Court was delivered by M.Dhandapani J.)

This Civil Miscellaneous Appeal has been filed by the insurance company aggrieved by the award passed by the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Dharmapuri in M.C.O.P.No.1689 of 2014, dated 06.09.2022.

2. The respondents 1 to 4 are the wife, sons and father of the deceased M.Elango. As per the claim petition, on 19.09.2012, the petitioner (M.Elango) was riding his motorcyle bearing Regn.No.TN-24-7684 from Santhanoor to Karimangalam, on the left side of the road. At about 10.30 hours, when the

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petitioner was nearing Ramapuram Vinayagar Kovil, a TATA ACE bearing Regn.No.TN-70-4635 belong to the 1st respondent and insured with the 2nd respondent, came on the opposite direction at a high speed, without sounding horn, and without following the traffic rules, driven by its driver in a rash and negligent manner, and dashed against the petitioner causing fatal injuries to him. Immediately, he was taken to Government Hospital, Karimangalam and has taken treatment as an inpatient till 25.10.2010 and thereafter, continued to take treatment. Thereafter, on 18.04.2013, the petitioner had filed a claim petition claiming a compensation of Rs.48,84,156/-, which was restricted to Rs.30,00,000/-. Pending the claim petition, on 25.07.2014, the petitioner died, thereby his legal representatives have been brought on record as petitioners 2 to 5 in the claim petition.

3. Before the Tribunal, the claimants have examined 3 witnesses viz., P.W.1 to P.W.3 and marked 33 documents viz., Ex.P1 to Ex.P33. On the side of the respondents, they have examined 1 witness as R.W.1 and marked 1 documents as Ex.R1. After adjudication, the Tribunal had allowed the petition and awarded a sum of Rs.36,62,526/-. Aggrieved by the same, the Insurance Company has filed the appeal.

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4. The learned counsel appearing for the appellant-insurance company would submit that though the FIR was initially registered against the driver of the offending vehicle, the subsequent investigation revealed a different factual matrix that the deceased while riding his motorcycle, was using a cellphone, lost his balance and fell onto the road, which directly caused the accident. On the basis of these findings, the law enforcing agency referred the case as mistake of fact and filed a final report, which was marked as Ex.R1. However, without considering the same, the Tribunal erroneously fastened the entire negligence on the driver of the offending vehicle and directed the appellant to pay the entire compensation, which is wholly unsustainable. Furthermore, despite the claimants failing to prove that the deceased succumbed to the injuries sustained in the accident, the Tribunal erroneously awarded compensation by adopting the multiplier method, which warrants interference by this Court. Accordingly, he prays for allowing the appeal.

5. The learned counsel appearing for the respondents 1 to 4/claimants would submit that FIR and final report are not conclusive proof for determining the aspect of negligence. In order to prove the said aspect, the claimants

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examined P.W.3, an eye-witness to the accident, who clearly deposed to the exact manner in which the accident occurred. Conversely, the appellant-insurance company failed to adduce any contra evidence before the Tribunal to disprove the same. Therefore, the Tribunal rightly fastened the entire negligence on the part of the driver of the offending vehicle. Further, he submitted by considering all the oral and documentary evidence, the Tribunal awarded just and reasonable compensation in favour of the claimants, which warrants no interference by this Court. Accordingly, he prays for dismissal of the appeal.

6. Heard the learned counsel appearing for the appellant as well as the respondents 1 to 4 and perused the materials available on record.

7. Admittedly, on 19.09.2012, the 1st petitioner (M.Elango) was riding his motorcyle bearing Regn.No.TN-24-7684 from Santhanoor to Karimangalam on the left side of the road. At about 10.30 hours, when he was nearing Ramapuram Vinayagar Kovil, a TATA ACE vehicle, bearing Regn.No.TN-70-4635 travelling in the opposite direction at high speed, driven by its driver in a rash and negligent manner, and dashed against him, causing fatal injuries to him. Immediately, he was taken to Government Hospital, Karimangalam, where he

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underwent treatment as an inpatient till 25.10.2010 and subsequently, continued to take treatment. Thereafter, on 18.04.2013, the petitioner had filed a claim petition seeking compensation of Rs.48,84,156/-, which was restricted to Rs.30,00,000/-. Pending the claim petition, on 25.07.2014, the petitioner succumbed to the injuries, following which his legal representatives were brought on record as petitioners 2 to 5. After adjudication, the Tribunal allowed the petition and awarded a sum of Rs.36,62,526/-. Aggrieved by the same, the Insurance Company has filed the appeal.

8. Regarding the negligence aspect, it is observed that though the FIR was initially registered against the driver of the offending vehicle, the law enforcing agency subsequently referred the case as mistake of fact and filed a final report, which was marked as Ex.R1. A perusal of the final report viz. Ex.R1 makes it clear that the investigating officer did not examine any independent witnesses as no name of examined individuals are reflected therein. Therefore, this Court, vide order dated 28.07.2023, while admitting this appeal, *suo-motu* impleaded the 6th respondent herein and directed the said respondent to respond as to why the final report in Crime No.764 of 2014 dated 17.10.2013 was not filed before the Magistrate till the learned Magistrate closed the FIR on

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10.04.2014. In compliance of the same, the 6th respondent filed an affidavit dated 10.03.2026, stating that an enquiry has been initiated into the procedural lapse regarding the delayed filing of the final report pertaining to Cr.No.764 of 2012 on the file of Karimangalam Police Station, Dharmapuri District. Given that the final report, viz Ex.R1 was dated 17.10.2013, but the FIR was closed on 10.04.2014, viz., Ex.P1 without proper adherence, the said final report cannot be relied upon to arrive at a conclusion regarding negligence. Therefore, relying on the FIR (Ex.P1) registered against the driver of the offending vehicle, the Tribunal correctly held that due to the rash and negligent driving of the driver of the offending vehicle, the accident had happened and fastened the entire negligence on the driver of the offending vehicle, which is wholly sustainable in law and the same does not warrant any interference by this Court.

9. Now, coming to the question of quantum of compensation awarded by this Tribunal, it is relevant to extract the details of the injuries sustained by the deceased :-

> *"Bleeding from the both ears.*
> *2.Braze abrasion 15 x 10 c.m. over right arm.*
> *3.Fracture of left temporal bones.*
> *4.Contusion over right temporal bones.*
> *5.Movements in left arm and left leg are restricted and unable to function."*

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10. It is claimed by the claimants that due to the severe nature of the injuries suffered, the deceased underwent continuous medical treatment and his subsequent death was a direct consequent of the accident. Following the initial hospitalization, he was again admitted to Suraksha Multi Speciality Hospital as an inpatient on 23.07.2013 for seven days and was discharged on 30.07.2013, and the discharge summary in this regard was marked as Ex.P.11. A series of medical bills were also produced and marked during the course of trial as Ex.P19. Thereafter, he died on 25.07.2014. To prove the nexus between the accident injuries and the death, the claimants initially took steps to examine the treating doctor, but medical practitioner unfortunately passed away due to Covid-19. Consequently, there was initially no medical opinion on record to establish the nature of the injuries, whether the death of the deceased was a direct result of the those injuries, or whether the hospitalisation in July 2013 was due to the injuries sustained in the accident or an independent cause.

11. To resolve this ambiguity, this Court remanded the matter to the Tribunal/Chief Judicial Magistrate Court, Dharmapuri for recording additional evidence. In compliance with the same, the learned Chief Judicial Magistrate, Dharmapuri submitted a report dated 28.04.2026. The report indicates that a

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medical officer possessing over 60 years of medical experience was examined as an additional witness (P.W.4) on 21.04.2026, and was cross-examined at length by the appellant. He deposed that the deceased had suffered severe head injuries, including brain contusions and fractures. He clarified that the prolonged, bedridden state necessitated by these severe injuries led to the development of "Septicaemia" which ultimately caused the death. In view of the report submitted by the learned Chief Judicial Magistrate, Dharmapuri, this Court holds that the deceased died due to complications directly arising from the injuries suffered in the accident. As the accident was caused by the rash and negligent driving of the 5th respondent's vehicle, which was insured with the appellant, the appellant/insurance company is liable to compensate the claimants.

12. Since this Court has held that the deceased died due to complications directly arising from the injuries suffered in the accident, this Court is of the view that the compensation awarded by the Tribunal under various heads is just and reasonable. Given that the Tribunal properly assessed the quantum on the premise that the death of the deceased was a direct consequence of the accident, the award cannot be termed excessive. Therefore, this Court is not inclined to

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interfere with the award passed by the Tribunal and hence, this appeal is liable to be dismissed.

13. Accordingly, the Civil Miscellaneous Appeal is dismissed, confirming the impugned award passed by the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Dharmapuri in M.C.O.P.No.1689 of 2014, dated 06.09.2022. The Appellant-Insurance Company is directed to deposit the entire award amount as awarded by the Tribunal to the credit of M.C.O.P.No.1689 of 2014 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. The compensation amount shall be apportioned among the respondents 1 and 4/claimants 2 and 5 as per the apportionment of the Tribunal. On such deposit being made, the Tribunal is directed to transfer the respective share of the respondents 1 and 4/claimants 2 and 5 directly to their bank account through RTGS within a period of two (2) weeks thereafter. Further, the Tribunal is also directed to deposit the share of the respondents 2 and 3/claimant 3 and 4 in an interest yielding fixed deposit with any one of the Nationalised Banks, initially for a period of one year

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to be renewed at periodic intervals until they attain majority and interest derived from out of the said deposits shall be paid to the 1st respondent, who is the mother of the respondents 2 and 3, every quarter, to be utilised for the welfare of the said minor claimants. After attaining majority, it is open to the respondents 2 and 3/claimant 3 and 4 to file necessary application to establish their majority, at which point of time, the Tribunal is directed to transfer the amount in the fixed deposits directly to the bank account of the respondents 2 and 3/claimants 3 and 4 through RTGS within a period of two (2) weeks thereafter. No costs. Consequently, the connected civil miscellaneous petition is closed.

(M.D.I.,J.) (A.D.M.C.,J.)
28-10-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
sp

To

1.The Motor Accident Claims Tribunal,
Chief Judicial Magistrate, Dharmapuri.

2.The Superintendent Of Police
Dharmapuri.

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M.DHANDAPANI J.
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DR.A.D.MARIA CLETE J.

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