



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving the Judgment	Date of Pronouncing the Judgment
17.12.2025	22.01.2026

CORAM

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

**CMA No. 1364 of 2022
and
C.M.P.No.9895 of 2022**

The Divisional Manager,
M/s.IFFCO-TOKIO Insurance Company Ltd.,
No.43/3, First Floor,
100 feet Road, Mudaliarpeta,
Puducheri.

Appellant/III Respondent.

Vs

1.Balasubramanian
2.Selvi (died)
3.Ramesh Krishna
4.Satish
Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Final Award dated 25th January, 2022, passed in M.C.O.P.No.839 of 2013, by the Motor Accidents Claims Tribunal (In the III Additional District Court), at Puducheri.

For Appellant(s): Mr.J.Michael Visuvasam

For Respondent(s): Mr.D.Senthil Kumar for R1

JUDGMENT



(Judgment of the Court was made by K.KUMARESH BABU., J.)

WEB COPY

This Civil Miscellaneous Appeal has been filed by the appellant—Insurance Company challenging the award dated 25.01.2022 passed by the Motor Accident Claims Tribunal, whereby a total compensation of Rs.20,10,000/- was awarded in favour of the dependents of the deceased.

2) The brief facts leading to the filing of the present appeal are that the deceased, aged about 27 years, had completed B.Sc. (Catering Technology) and MBA (Human Resource Management). He was employed as a Manager in the Catering Section at Sooriya Beach Resort, ECR Main Road, Villupuram, and was earning a monthly income of Rs.16,000/-. On 19.05.2013, while the deceased was riding his friend's Hero Honda Passion Plus motorcycle bearing Registration No. PY-01-AV-4583 near Sangamam Quarters, he dashed against the vehicle of the third respondent, which had come to a sudden halt allegedly due to animal intervention on the road.

3) The claimants filed a claim petition seeking compensation of Rs.41,00,000/-, contending that the accident occurred due to the rash and negligent driving of the third respondent and that the offending vehicle was insured with the appellant—Insurance Company, thereby making the appellant and the third respondent jointly and severally liable to pay compensation. Upon



consideration of the oral and documentary evidence adduced on either side, the Tribunal awarded a total compensation of Rs.20,10,000/- under various heads, including loss of income, medical expenses, loss of consortium, loss of love and affection, and funeral expenses, after deducting 15% towards contributory negligence on the part of the deceased. Aggrieved by the said award, the Insurance Company has preferred the present appeal.

4) Heard Mr. J. Micheal Visuvasam, learned counsel appearing for the appellant–Insurance Company, and Mr. D. Senthil Kumar, learned counsel appearing for the first respondent.

5) The learned counsel for the appellant submits that the Tribunal failed to properly appreciate the manner in which the accident occurred while determining the issue of negligence. It is contended that Ex.P1, the FIR, clearly indicates that the deceased, who was riding his motorcycle, rammed into the rear of the vehicle of the third respondent, which was proceeding ahead of him, resulting in the accident.

6) The learned counsel further submits that the third respondent had stopped the vehicle due to sudden animal intervention on the road and that, in such circumstances, it was not possible to give any prior signal. It is contended that the deceased failed to maintain a safe distance from the vehicle ahead and



was riding at an uncontrollable speed, which led to the accident.

7) It is further submitted that Ex.P5, the Motor Vehicle Inspector's report, reveals that the deceased did not possess a valid driving licence at the time of the accident. According to the learned counsel, the Tribunal erred in fastening liability on the third respondent despite documentary evidence pointing towards negligence on the part of the deceased.

8) The learned counsel also contends that the deceased was a bachelor at the time of death and, therefore, the deduction towards personal and living expenses ought to have been 50% and not one-third. It is further argued that the fixation of monthly income at Rs.12,000/- by the Tribunal is unrealistic and excessive in the absence of proper documentary proof. On these grounds, the learned counsel seeks interference by this Court and prays for reduction of the award.

9) Countering the above submissions, the learned counsel for the respondent submits that the Tribunal has correctly appreciated the oral and documentary evidence on record while fixing negligence on the part of the third respondent. It is contended that the accident occurred due to the sudden and abrupt stoppage of the vehicle driven by the third respondent without giving any signal or indication, thereby leaving no reasonable opportunity for the



deceased, who was riding behind, to avoid the collision.

WEB COPY

10) The learned counsel further submits that the FIR is not a substantive piece of evidence and that negligence cannot be determined solely on its basis. It is contended that the Tribunal rightly considered the totality of circumstances, including oral evidence and contemporaneous records, which clearly establish rash and negligent conduct on the part of the third respondent.

11) It is further submitted that the plea of animal intervention has not been substantiated by any independent evidence and that sudden stoppage of a vehicle on a public road without adequate caution itself constitutes negligence. The learned counsel submits that the Tribunal, after due appreciation of evidence, rightly fastened liability on the third respondent and the insurer.

12) With regard to the contention relating to the absence of a driving licence, the learned counsel submits that the insurer failed to establish any causal connection between the absence of licence and the occurrence of the accident. Mere non-production of a driving licence, it is contended, does not ipso facto establish negligence on the part of the deceased nor absolve the insurer of its statutory liability.

13) It is finally submitted that the Tribunal has already deducted 15%



towards contributory negligence and awarded compensation which is just, reasonable, and in consonance with settled principles of law. Hence, no interference is warranted, and the appeal deserves to be dismissed.

14) This Court has carefully considered the submissions made by the learned counsels on either side and perused the materials available on record. Upon such consideration, this Court finds that interference is required only with respect to the deduction towards personal expenses.

15) As the deceased was a bachelor at the time of the accident, this Court is of the view that, in terms of the principles laid down by the Hon'ble Supreme Court in *Sarla Verma v. DTC*, 50% of the income ought to have been deducted towards personal and living expenses.

16) That apart, with regard to filial consortium, in the light of the law laid down in *National Insurance Co. Ltd. v. Pranay Sethi*, the claimants are entitled to Rs.40,000/- each. Accordingly, a sum of Rs.80,000/- is awarded towards loss of filial consortium.

17) This Court, upon a careful re-appreciation of the materials on record, finds that the manner of the accident assumes significance. Ex.P1 – FIR clearly indicates that the deceased dashed against the rear side of the vehicle



proceeding ahead of him. The deceased admittedly failed to maintain a safe distance and did not regulate his speed in accordance with road conditions. The principle that a rider following another vehicle must maintain sufficient distance to avoid collision in the event of sudden braking is well settled.

18) Further, Ex.P5 – Motor Vehicle Inspector’s report reveals that the deceased did not possess a valid driving licence at the time of the accident. Though mere absence of a driving licence by itself may not be conclusive of negligence, when read conjointly with the manner of occurrence of the accident and the failure of the deceased to control the vehicle, this Court is of the view that the deceased substantially contributed to the occurrence of the accident.

19) In the considered opinion of this Court, the Tribunal erred in restricting the contributory negligence on the part of the deceased to 15%. Having regard to the facts that the deceased failed to maintain speed discipline, did not keep a safe distance from the vehicle ahead, and was riding without a valid driving license, this Court finds it appropriate to fix contributory negligence at 30% on the part of the deceased.

20) Accordingly, the compensation determined by the Tribunal, as modified by this Court under various heads, shall be subject to deduction of 30% towards contributory negligence on the part of the deceased. Except for the



enhancement of contributory negligence and the modification relating to deduction towards personal expenses of a bachelor and filial consortium, all other findings of the Tribunal stand confirmed. For better appreciation, the modified compensation is tabulated hereunder.

S.No.	Heads of compensation awarded	Amount awarded by Tribunal	Amount awarded by this Court	Award Modified or confirmed
1	Loss of Dependency	Rs.22,84,800/- (Rs.12,000+40% = Rs.4800 Rs.16,800-1/3rd= Rs.11,200*12*17)	Rs.17,13,600/- (Rs.12,000+40%= Rs.4800 Rs.16,800-1/2= Rs.8400*12*17)	Reduced
2	Filial Consortium	Rs.44,000/-	Rs.80,000/- each claimant	Enhanced
3	Funeral Expenses and loss of Estate	Rs. 33,000/-	Rs.33,000/-	Confirmed
	Total	Rs.23,62,000/- (rounded off Rs.23,61,800/-)	Rs.18,27,000/- (rounded off Rs.18,26,600/-)	Reduced
4	Contributory Negligence	Rs.3,54,330/- (15% reduction)	Rs.5,48,100/- (30% Reduction)	Enhanced
	Total	Rs.20,10,000/- (Rounded off Rs.20,07,730/-)	Rs.12,79,000/- (Rounded off Rs.12,78,900/-)	Reduced

In the result, the Civil Miscellaneous Appeal is partly allowed to the limited extent indicated above and the first respondent is awarded a compensation of Rs.12,79,000/-. The first respondent is entitled for the distribution of the aforesaid award in the same proportion as granted by the



Tribunal. They are also entitled to the interest @ 7.5% per annum from the date of the Original Petition. The Appellant shall deposit the aforesaid amount less any amount that has been deposited earlier together with interest within a period of 30 days from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

(C.V.K., J.) (K.B., J.)
22-01-2026

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

To

1. Motor Accidents Claims Tribunal
(In the III Additional District Court),
Puducheri.
2. The Section Officer,
VR Section, High Court,
Madras.



WEB COPY

CMA No. 1364 of 2022



**C.V.KARTHIKEYAN, J.
and
K.KUMARESH BABU, J.**

Pbn

**PRE-DELIVERY JUDGMENT
IN**

**CMA No. 1364 of 2022
and
C.M.P.No.9895 of 2022**

22-01-2026