



WEB COPY

CMA No. 411 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-06-2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

CMA No. 411 of 2023

and

CMP No.3484 of 2023

The Branch Manager
M/s.Shriram General Insurance Co. Ltd
Puduchery-Cuddalore Main Road,
Murungapakam, Puduchery.

..Appellant

Vs

1. Soundarajan
2. R.Anand
3. A.Thanusu
4. The Branch Manager
HDFC ERGO General Insurance Co Ltd.,
First Floor, HDFC House,
No.165-166, Backbay Reclamation,
HT Parekh Marg, Church Gate,
Mumbai 400 020.

..Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 seeking to set aside the order dated 27.04.2022 passed in MCOP No. 86 of 2020 on the file of the Additional Motor Accident Claims Tribunal, Puducherry.

For Appellant:

Ms.V.Pushpa

For Respondents:

Mr.J.Zeakumar for
M/s.Achari & Antoni Associates for R1
Mr.S.Arunkumar for R4
No appearance for R2



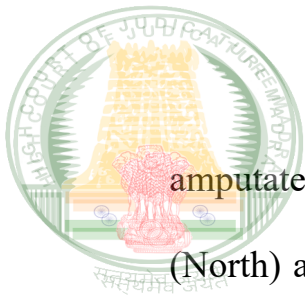
JUDGMENT

WEB COPY (Judgment of the Court was delivered by C.V.Karthikeyan J.)

The second respondent in M.C.O.P.No.86 of 2020, aggrieved by the grant of compensation by award dated 27.04.2022 by the Motor Accident Claims Tribunal, Pondicherry, is the appellant herein.

2. The facts of the case are as follows:-

The first respondent herein, while driving his Splendor Plus motorcycle bearing Reg. No. PY-01-CD-3760 in the Kamaraj Salai, Pudcherry, East to West direction on the eastern side of near 'I food' Hotel, the driver of the 2nd Respondent herein, who was driving the vehicle bearing Reg. No.PY-01-CR-9492 Ashok Leyland Dost Load Carrier Van, had parked the said vehicle in the middle of the road and suddenly opened the door of the vehicle without giving any alert signal, as a result, the first respondent was hit by the door and was thrown out of his vehicle. At that time the third Respondent's Vehicle Tipper Lorry bearing Reg No. TN-32-AH-4089 plying from West to East direction without adhering to traffic rules, had dashed against the first respondent and ran over him. The injured claimant was admitted in Jipmer Hospital, Pondicherry as inpatient. He had sustained a crush injury in his right upper arm with mangled extremity, left Pinna Avulsion (lower half) with right ear laceration and abrasion all over the body. Subsequently, his right hand was

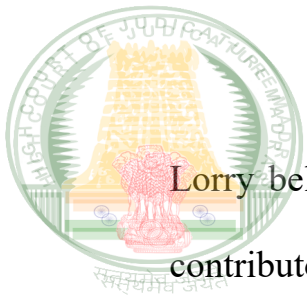


amputated. The accident had been registered with the Traffic Police station (North) as Crime No.231/2019 under IPC Secs. 279, 338. Contending that the accident had occurred due to the rash and negligence on the part of the drivers of the second and third respondent herein, and the appellant and the fourth respondent, the insurer of the vehicles belonging to their vehicles being vicariously liable to pay the compensation, the first respondent herein had filed the claim petition against them.

3. The compensation claimed being Rs.60,00,000/-, the Tribunal had awarded a total compensation of Rs.54,42,000/-. Challenging the said award, the present appeal has been filed by the insurer of the vehicle belonging to the first respondent before the Tribunal.

4. According to the learned counsel for the appellant, the rash and negligence lies equally on the part of the driver of the third respondent in driving the Tipper Lorry bearing registration No.TN 32 AH 4089 and therefore, the liability to pay the award amount should have been mulcted upon the fourth respondent, namely the insurer of the third respondent vehicle. Apart from that, there is no ground raised with respect to the quantum of compensation awarded.

5. A perusal of the entire materials would clearly show that the trigger point for the accident was the sudden opening of the door by the Ashok Leyland Dost Load Carrier Van bearing Reg. No.PY-01-CR-9492 by parking in the middle of the road. When the door was opened, the first respondent was hit by the door and was thrown out of his vehicle and was run over by the Tipper



Lorry belonging to the third respondent. Therefore, we are of the view that contributory negligence cannot be attributed to the driver of the vehicle belonging to the third respondent warranting to mulct the liability upon the fourth respondent namely the insurer of the third respondent's vehicle.

6. The Tribunal had examined this particular aspect in a very detailed manner and had come to a correct conclusion that only the Insurance Company of the appellant vehicle has to bear the compensation. We are inclined to agree with the finding rendered by the Tribunal. We are not inclined to interfere with the same on the negligence aspect.

7. Similarly, the compensation awarded by the Tribunal under various other heads, are, in our view, are not on the higher side and therefore, do not warrant any interference.

8. In the result, the Civil Miscellaneous Appeal stands dismissed confirming the award passed by the Tribunal. The claimant respondent permitted to withdraw award amount already deposited alongwith accrued interest and cost. No costs. The connected miscellaneous petition is closed.

(C.V.K.,J.) (K.R.S.,J.)
03-06-2026

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



To
1. Additional Motor Accident Claims Tribunal,
Puducherry.

2. The Branch Manager
HDFC ERGO General Insurance Co Ltd.,
First floor, HDFC House,
No.165-166, Backbay Reclamation,
HT Parekh Marg, Church Gate,
Mumbai 400 020.



WEB COPY

CMA No. 411 of 2



**C.V.KARTHIKEYAN, J.
AND
K.RAJASEKAR, J.**

ssk

CMA No. 411 of 2023

03-06-2026