



WEB COPY

CMA No. 3390 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-03-2026

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THE HON'BLE MR.JUSTICE K.KUMARESH BABU

CMA No. 3390 of 2021

and

C.M.P.No.19552 of 2021

The Divisional Manager
The Divisional Office, Oriental Insurance Co.Ltd,
Vellore.

..Appellant(s)

Vs

1. S.Gayatri

2. H.Abdul Haleem

..Respondent(s)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the decree and judgment passed in M.C.O.P.NO. 324 of 2018 dated 03.02.2021 Learned Motor Accident Claims Tribunal (Special Subordinate Judge) Tirupattur.

For Appellant(s): Mr.J.Chandran

For Respondent(s): R1 & R2 – Served - No appearance

JUDGMENT

The present Civil Miscellaneous Appeal has been filed to set aside the decree and judgment passed in M.C.O.P.NO. 324 of 2018 dated 03.02.2021 Learned Motor Accident Claims Tribunal (Special Subordinate Judge) Tirupattur.



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2. Heard Mr.J.Chandran, learned counsel appearing for the appellant.

3. In spite of notice having been served on respondents 1 and 2 and their names also having been printed in the cause list today, there is no representation on the side of the respondents 1 and 2.

4. The learned counsel appearing for the appellant would contend that the appeal had been filed, challenging the liability that had been fixed, as also the compensation. In the said accident, three individuals were involved and two of the individuals had suffered fatal injuries and the claimant in the present appeal had been awarded with the compensation of Rs.74,000/- at 7.5% interest. In the case of the two fatal cases, award came to be passed and the same were challenged before this Court in C.M.A.Nos.2738 & 2741 of 2021 dated 13.12.2024 and would fairly submit that the contributory negligence of 15% had been fixed for not wearing the helmet and also rejected the claim of liability on the part of the appellant. She would fairly submit that applying the aforesaid judgment, the contributory negligence of 15% can also be included in the award and the award may be modified appropriately.

5. A perusal of the judgment made in C.M.A.Nos.2738 & 2741 of 2021 dated 13.12.2024, would indicate that this Court had fixed the liability of 15%



on the rider of the bike and had held the appellant liable to pay 85% of the award amount. Applying the same, it is imperative that the award granted in this case also has to be modified, fixing the liability of the appellant at 85% alone.

6. Accordingly, the appeal stands partly-allowed by holding that the appellant will be liable to pay 85% of the award amount as fixed by the Tribunal, as this Court do not find any material infirmity in the quantum that have been arrived at by the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

27-03-2026

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

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To

The Learned Motor Accident Claims Tribunal
(Special Subordinate Judge), Tirupattur.



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K.KUMARESH BABU, J.

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