



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-06-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CMA No. 703 of 2024

and

CMP No. 6479 of 2024

The Manager,
Reliance General Insurance Company Ltd., Branch
Office, Sri Lakshmi Complex, 1st Floor, Bharathi
Street, Omalur Main Road, Swarnapuri,
Salem 636 004

..Appellant(s)

Vs

1. Ramu
S/o Ramasamy, No.243-B, Kurinji Nagar, 2nd
Street, Maramangalathupatti, Mohan Nagar,
Salem 636 030
2. Surender
S/o Ramu Res at No.243-B, Kurinji Nagar, 2nd
Street, Maramangalathupatti, Mohan Nagar,
Salem 636 030
3. Vignesh
S/o Ramu Res at No.243-B, Kurinji Nagar, 2nd
Street, Maramangalathupatti, Mohan Nagar,
Salem 636 030

..Respondent(s)

PRAYER: To set aside the Judgment and decree dated 05.04.2023 passed in M.C.O.P.No.506 of 2022 on the file of Motor Accidents Claims Tribunal (Special District Judge), at Salem.

For Appellant(s): Mr.P.Suresh Srinivasan

For Respondent(s): No appearance



JUDGMENT

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This appeal has been filed by the Insurance Company against the award passed by the Special District Judge, Motor Accidents Claims Tribunal, Salem in M.C.O.P.No.506 of 2022 dated 05.04.2023.

2.The first respondent is the husband of the deceased Rajeswari. The case of the first respondent is that on 25.09.2020 the deceased Rajeswari was travelling as a pillion rider in a two-wheeler that was driven by the third respondent who is none other than the son of the first respondent. The third respondent is said to have driven the vehicle in a rash and negligent manner as a result of which the two-wheeler met with an accident and the deceased Rajeswari sustained grievous injuries and she succumbed to the injuries on 29.09.2020.

3.Initially the first respondent and the third respondent filed M.C.O.P.No.345 of 2021 for the very same accident and the same came to be dismissed as not pressed on 03.03.2022. Thereafter, the first respondent filed the present M.C.O.P.No.506 of 2022 seeking for a compensation for the demise of his wife.



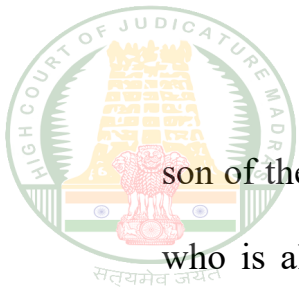
4. The Tribunal on considering the facts and circumstances of the case, and on appreciation of oral and documentary evidence came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the third respondent.

5. Having rendered the above finding the Tribunal fixed the total compensation at Rs.9,85,000/- and the same was directed to be paid with interest at the rate of 7.5% per annum. The Tribunal made the insurance company as well as the owner and rider of the vehicle jointly and severally liable to pay the compensation. Aggrieved by the same, the Insurance Company has filed the present appeal before this Court.

6. The respondents have been served with notice and their names have also been printed in the cause list. However, there is no representation either in person or through counsel.

7. This Court carefully considered the submissions made by the learned counsel for the appellant and the materials available on record. This Court also carefully went through the award passed by the Tribunal.

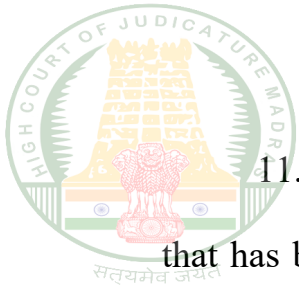
8. In the case in hand, the accident took place due to the rash and negligent driving on the part of the third respondent who is none other than the



son of the first respondent. The two-wheeler is owned by the second respondent who is also the son of the first respondent. The mother travelled as a pillion rider in the vehicle that was driven by the third respondent. The third respondent was merely the borrower of the vehicle from the second respondent and the third respondent was the tortfeasor in this case. The second respondent had handed over the two-wheeler to the third respondent and the third respondent is the tortfeasor, and the second respondent cannot claim compensation from the insurer. By most stretch, the deceased can be set to be a third party in this case.

9. The above crucial aspect has not been considered by the Tribunal. Apart from the above, the first respondent and the third respondent had earlier filed the claim petition for the very same accident and the same was dismissed as not pressed on 03.03.2022. The subsequent claim petition came to be filed by the first respondent.

10. In the light of the above discussion, this Court holds that since the third respondent is the tortfeasor for the two-wheeler borrowed from the second respondent who is the brother, the father will not be entertained to claim for any compensation. Therefore, the compensation granted by the Tribunal as against the insurance company is liable to be set aside. Accordingly, the same is hereby set aside.



11. In the result, this Civil Miscellaneous Appeal is allowed. The amount that has been deposited by the appellant/Insurance Company shall be refunded along with accrued interest. No costs. Consequently, the connected miscellaneous petition stands closed.

30-06-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

SSI

To:

1. The Special District Judge,
Motor Accidents Claims Tribunal,
Salem.

2. The Section Officer,
V.R. Section,
High Court of Madras.



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N.ANAND VENKATESH, J.

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