



C.M.A.Nos.2169 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	03.02.2026
Pronounced on:	06.03.2026

CORAM

THE HONOURABLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI

C.M.A.No.2169 of 2023

C.M.P. No.20934 of 2023

The National Insurance Company Limited,
Divisional Office No.I, L.R.N Complex,
Saradha College Main Road, Salem-7

...Appellant

Vs.

1.Kumaresan

2.A.Gulab

...Respondents

Prayer: The Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the award passed in M.C.O.P.No.375 of 2015 dated 07.06.2023 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Salem.

For Appellant : Mr. J.Chandran

For Respondent : R1 & R2 served no appearance



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JUDGMENT

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This civil miscellaneous appeal is preferred against the Order dated 07.06.2023 made in M.c.O.P.No.375 of 2015 on the file the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Salem.

2. On 15.12.2014 at about 12.15 hours when the claimant was driving the TATA Indica Car bearing Registration No.TN 30 AJ 7881 on Bhavani to Mettur main road near Orachikottai Church, a Maxi cab bearing Registration No.TN 23 K 7231, driven by its driver with the number of passengers above the determined seating capacity in rash and negligent manner, hit against the claimant's vehicle and cause the accident. In the said accident the claimant suffered multiple injuries all over the body. Hence, filed the above claim petition claiming a sum of Rs.20,00,000/- as compensation.

3.The Insurance Company resisted the claim of the claimant stating that the alleged accident took place due to the rash and negligent driving of the claimant. The FIR and the final report is against the claimant and therefore, the insurance company is not liable to pay any compensation to the claimant.



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4. Based on the materials on record, the Tribunal found that the driver of the Maxi cab was at fault and ordered the insurance company to pay the compensation to the claimant.

5. Assailing the said order of the Tribunal, the insurance Company has preferred the present appeal.

6. Mr. J. Chandran, learned counsel for the Insurance Company would submit that since the FIR and charge sheet were against the claimant, the Tribunal ought to have fixed 100% negligence on the part of the claimant instead of 50%. The claimant has carried more number of passengers exceeding the seating capacity and was responsible for the alleged accident. While so, the learned Tribunal erred in fixing only 50% contributory negligence on part of claimant.

7. Despite notice there is no representation on the side of the respondent.

8. Admittedly, the FIR was registered against the claimant. No eyewitness were examined on either side to speak about the manner of the accident. According to the appellant, the alleged accident was due to direct



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collusion of both the vehicles. This is substantiated by Ex.P.1 FIR and Ex.X1 charge sheet. Moreover, the complaint was lodged by the driver of the Maxi cab, wherein he failed to appear and adduce evidence with regard to the manner of accident. R.W.1 – Special Sub Inspector of Police is not an eyewitness to the alleged accident. Hence, her evidence cannot be relied upon to fix the entire liability on the claimant. Moreover, if the offending vehicle's driver had driven the vehicle with due care, the accident could have been averted. The Tribunal after considering the oral and documentary evidence, found that both the claimant as well as the driver of the insured vehicle are responsible for the alleged accident and had fixed 50% of negligence to the claimant and 50% of negligence on the appellant, warrants any interference by this Court. The compensation awarded under other heads are found to be correct.

9. Accordingly, this civil miscellaneous appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

06.03.2026

vsn

Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order

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- To
1. The Chief Judicial Magistrate, Motor Accident Claims Tribunal,
Salem.
 2. The Section Officer,
VR Section,
High Court, Madras.



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K.GOVINDARAJAN THILAKAVADI, J.

vsn

Pre-delivery Judgment made in

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