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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-10-2026

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THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

CMA No. 210 of 2020
{CNR:HCMA011456652019}
and
CMA No. 211 of 2020
CNR:{HCMA011456642019}
and
CMP.Nos.1615 & 1621 of 2020

CMA No. 210 of 2020
{CNR:HCMA011456652019}

The IFFCO TOKIO General Insurance Co Ltd.,
No.43/3, First Floor, 100 Feet Road,
Mudaliarpet, Pondicherry – 605 004.

..Appellant(s)

Vs

1. M.Jeganathan

2. Shri Chandram

..Respondent(s)

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree dated 25.04.2019 made in MCOP NO.238 of 2016 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Cuddalore.

For Appellant(s): Mr.S.Arun Kumar

For Respondent(s): No appearance
(For RR1 & R2)

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CMA No. 211 of 2020
CNR:{HCMA011456642019}

The IFFCO TOKIO General Insurance Co Ltd.,
No.43/3, First Floor, 100 Feet Road,
Mudaliarpet, Pondicherry – 605 004.

..Appellant(s)

Vs

1. G. Mohanasundaram

2. Shri Chandram

..Respondent(s)

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree dated 25.04.2019 made in MCOP NO.239 of 2016 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Cuddalore.

For Appellant(s): Mr.S.Arun Kumar

For Respondent(s): No appearance
(For RR1 & R2)

COMMON JUDGMENT

For the sake of convenience, the parties are referred to herein by their respective ranks before the Tribunal.

2. Unsuccessful Insurance Company has preferred these appeals, challenging the negligence fixed on its part.

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3. Civil Miscellaneous Appeal in C.M.A. No. 210 of 2020 has been filed against the award passed in M.C.O.P. No. 238 of 2016, pertaining to one M.Jeganathan. Civil Miscellaneous Appeal in C.M.A. No. 211 of 2020 has been filed against the award passed in M.C.O.P. No. 239 of 2016, pertaining to one G.Mohanasundaram.

4. According to the claimants, on 29.10.2015, at about 8.45 p.m., the claimant in M.C.O.P. No. 238 of 2016, namely, Mr.M.Jeganathan, was riding a motorcycle bearing Registration No.TN-31-BZ-5497 at his extreme left hand side of the Cuddalore to Chidambaram Road at Sankolikuppam. At that time, the first respondent's tractor bearing Registration No.KA-28-TA-7243 came in the opposite direction at high speed, in a rash and negligent manner and hit against the motorcycle and the claimant in M.C.O.P. No. 239 of 2016, namely, Mr.G.Mohanasundaram was travelling as a pillion rider. Due to the accident, both claimants sustained grievous injuries all over their bodies.

5. The first respondent was called absent and set ex parte before the Tribunal. The second respondent / Insurance Company filed a counter statement, wherein it has been stated that they denied the manner of the accident. It was also contended that the driver of the first respondent's vehicle was not possessing a valid and effective driving licence to drive the vehicle at the time of the accident and that such act amounted to a violation of the terms

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and conditions of the policy. Therefore, the second respondent contended that it was not liable to pay compensation to the claimants.

6. Since both the claim petitions arose out of one and the same accident, a joint trial was conducted by the Tribunal and the findings were recorded in M.C.O.P. No. 238 of 2016.

7. Before the Tribunal, on behalf of the claimants, the claimant in M.C.O.P.No.238 of 2016 was examined as P.W.1 and the claimant in M.C.O.P.No.239 of 2016 was examined as P.W.2. Exs. P1 to P10 were marked. The Disability Certificates were marked as Exs. C1 and C2. On the side of the second respondent, R.W.1 and R.W.2 were examined and Exs. R1 to R3 were marked.

8. Upon appreciation of the evidence adduced on either side, the Tribunal found that a criminal case had been registered against the driver of the tractor. The manner of the accident was also clearly deposed to by P.W.1 and P.W.2. Accordingly, the Tribunal concluded that the accident had occurred due to the rash and negligent act of the driver of the tractor.

9. With regard to the quantum of compensation in M.C.O.P.No.238 of 2016, the Tribunal awarded compensation under various heads as hereunder:

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Sl.No.	Heads	Amount granted by the Tribunal (Rs.)
1	Partial permanent disability (Rs.3000 x 6)	Rs.18,000/-
2	Extra Nourishment	Rs.10,000/-
3	Special Diet / Extra Nourishment	Rs.10,000/-
4	Transport	Rs.10,000/-
5	Pain and Suffering	Rs.50,000/-
6	Attendant Charge	Rs.10,000/-
7	Loss of Income during the treatment Period	Rs.20,000/-
8	Loss of Amounts	Rs.10,000/-
	Total	**Rs.1,38,000/-**
	Deduction 20%	**Rs.1,10,400/-**

10. Aggrieved over the same, the Insurance Company preferred C.M.A.No.210 of 2020, challenging the negligence fixed on its part.

11. With regard to the quantum of compensation in M.C.O.P.No.239 of 2016, the Tribunal awarded compensation under various heads as hereunder:

Sl.No.	Heads	Amount granted by the Tribunal (Rs.)
1	Partial permanent disability (Rs.3000 x 14)	Rs.42,000/-
2	Extra Nourishment	Rs.20,000/-
3	Special Diet / Extra Nourishment	Rs.10,000/-
4	Transport	Rs.10,000/-
5	Pain and Suffering	Rs.70,000/-
6	Attendant Charge	Rs.10,000/-
7	Loss of Income during the treatment Period	Rs.10,000/-
8	Loss of Amounts	Rs.10,000/-
9	Medical Bills (Ex.P9)	Rs.30,000/-
	Total	**Rs.2,12,000/-**
	Deduction 20%	**Rs.1,69,600/-**

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12. Aggrieved over the same, the Insurance Company preferred C.M.A.No.211 of 2020, challenging the negligence fixed on its part.

13. The learned counsel appearing for the appellant / Insurance Company would submit that the Tribunal erred in not framing a specific issue with regard to triple riding and the claimants travelling under the influence of alcohol. The Tribunal also failed to consider the fact that, at the time of the accident, the driver of the tractor did not have a valid and effective driving licence. The Tribunal failed to appreciate the evidence of R.W.1 and R.W.2 and Ex. R1 to infer that the driver of the tractor was not responsible for the accident. In the absence of any independent witness examined on the side of the first respondent, the Tribunal ought not to have relied upon the F.I.R., which was closed as a mistake of fact and the interested testimony of the claimants.

14. The learned counsel would further submit that the appellant / Insurance Company had sent notices to the owner of the vehicle as well as the driver of the tractor. The same had been clearly established through Exs. R1 and R2 and therefore, the appellant / Insurance Company was not liable to indemnify the claim.

15. Despite service of notice and effecting paper publication, the claimants have not chosen to appear either in person or through counsel before

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this Court. The owner of the vehicle has also not chosen to appear either in person or through counsel before this Court.

16. This Court has considered the submissions made by the learned counsel appearing for the appellant / Insurance company and perused the records carefully.

17. According to the claimants, on 29.10.2015, at about 8.45 p.m., the claimant in M.C.O.P.No.238 of 2016, namely Mr.M.Jeganathan, was riding the motorcycle, and the other claimant, namely, Mr.G.Mohanasundaram was travelling as a pillion rider. They were proceeding on the left side of the Cuddalore to Chidambaram Road at Sankolikuppam. At that time, the first respondent's tractor bearing Registration No.KA-28-TA-7243 came in the opposite direction at high speed, in a rash and negligent manner and hit the motorcycle, due to which the claimants sustained grievous injuries.

18. The claimants themselves were examined as P.W.1 and P.W.2, respectively and they deposed about the manner of the accident. During the course of cross-examination of P.W.1 and P.W.2, nothing was elicited against their evidence. It is also relevant to note that a criminal case had been registered against the driver of the tractor. A perusal of Ex. P1, shows that the manner in which the accident occurred has been narrated in detail.

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19. According to the appellant / Insurance Company, the first respondent's vehicle, namely, the tractor, was driven by its driver without a valid and effective driving licence. In order to prove the above said facts, the appellant relied upon Ex. R2, the notice sent to the owner of the vehicle, who is the first respondent and Ex. R3, the notice sent to the driver of the vehicle.

20. A perusal of Ex. R2 shows that a legal notice was issued by the counsel on behalf of the Insurance Company dated 12.12.2017 and addressed to the owner of the vehicle. However, only a xerox copy of the postal receipt was placed along with Ex. R2 and there is no proof of acknowledgment was filed.

21. A perusal of Ex. R3 shows that the counsel sent a notice dated 12.12.2017 to the driver of the tractor, namely, Promoth Kumar Gupta. Iis also seen that the notice sent to the driver of the tractor under Ex. R3 was returned with the endorsement “No Such Addressee”.

22. The Insurance Company has not chosen to examine any official from the concerned Regional Transport Office to substantiate its contention that, at the time of the accident, the driver of the tractor was not possessing a valid and effective driving licence. In the absence of the examination of an official from the Regional Transport Office and in the absence of proof of acknowledgment

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establishing that the notice was duly served on the owner of the tractor, the contention of the appellant that the driver of the tractor did not have a valid and effective driving licence at the time of the accident is not acceptable one.

23. With regard to the other contention raised by the appellant that the claimants were travelling on the motorcycle under the influence of alcohol and that three persons were travelling on the motorcycle at the time of the accident, it is seen from Ex. R1, a copy of the charge sheet, that it has been stated therein that three persons had travelled on the motorcycle at the time of the accident. The criminal case was closed as a mistake of fact. Mere filing of a charge sheet alone is not sufficient to substantiate the fact that three persons had travelled on the motorcycle at the time of the accident, in the absence of the examination of any reliable witness.

24. A perusal of Ex. P4, the Accident Register issued by the Government Headquarters Hospital, Cuddalore, in respect of the claimant in M.C.O.P.No.238 of 2016, wherein it has been mentioned therein that the person had travelled on a motorcycle under the influence of alcohol. A perusal of Ex.P6, the Accident Register issued by the Government Headquarters Hospital, Cuddalore in respect of the claimant in M.C.O.P.No.238 of 2016, shows that it has been mentioned therein that the alleged accident took place while the person was travelling on a two-wheeler under the influence of alcohol.

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25. Mere mentioning of the influence of alcohol in the Accident Register report alone is not sufficient to substantiate the contention of the appellant that the claimants had travelled under the influence of alcohol, in the absence of any other supporting evidence.

26. This Court is of the view that, upon appreciation of the evidence adduced on either side, the Tribunal rightly concluded that the accident occurred only due to the rash and negligent act of the driver of the tractor.

27. With regard to the quantum of compensation awarded in M.C.O.P.No.238 of 2016, considering the nature of the injuries sustained by the claimant and the permanent disability assessed at 6% by the Medical Board, the Tribunal fixed Rs.3,000/- per percentage of disability and accordingly awarded Rs.18,000/- under the head of permanent disability. The compensation awarded under the other heads appears to be reasonable and proper and does not require any interference.

28. Considering the fact that the claimants had travelled on the motorcycle under the influence of alcohol, the Tribunal has rightly fixed 20% contributory negligence on the part of the claimants, which does not warrants interference by this Court.

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29. With regard to the quantum of compensation awarded in M.C.O.P.No.239 of 2016, the Tribunal considered the permanent disability, assessed at 14% by the Medical Board, fixed Rs.3,000/- per percentage of disability and accordingly awarded Rs.42,000/- under the head of permanent disability.

30. The compensation awarded under the heads of extra nourishment, transport expenses, pain and suffering, attendant charges and loss of income during the treatment period appears to be reasonable and proper and does not require any interference.

31. In the light of the above discussion, there is no merit in these appeals, and the same are dismissed. The common award passed by the Tribunal is hereby confirmed and the contributory negligence of 20% is also confirmed. The appellant / Insurance Company, is directed to deposit the entire award amount fixed by the Tribunal in the respective claim petitions, along with interest and costs, less the amount already deposited, if any, within a period of six (6) weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.238 of 2016 and MCOP.No.239 of 2016 respectively on the file of the Motor Accident Claims Tribunal, Judge/Special Sub Judge, Cuddalore. On such deposit, the claimants are permitted to withdraw the award amount along

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with interest and costs, less the amount, if any, already withdrawn, by making proper application before the Tribunal. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. The manner and mode of disbursement of compensation shall be as per the order of the Tribunal. However, it is made clear that the claimants are not entitled for interest for the period of delay, if any, as ordered by this Court earlier. The claimants are directed to pay the necessary Court fee, if any, on the enhanced compensation. No costs. Consequently, connected miscellaneous petitions are closed.

28-10-2026

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

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To

1.The Motor Accident Claims Tribunal,
Special Sub Court, Cuddalore.

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

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M.JOTHIRAMAN J.

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CMA Nos. 210 & 211 of 2020

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