



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 30-06-2026**

CORAM

**THE HON'BLE MR JUSTICE N. ANAND VENKATESH**

**CMA No. 1417 of 2025**

**and**

**CMP No.11980 of 2025**

Gunasekaran

S/o.Kumarasamy, No.11, Subrayamudaliar Link  
Road, Sriram Nagar, Karaikal

..Appellant(s)

Vs

1. Ranjith Kumar  
S/o.Manickaraj, LGR Colony, Valliammai  
Nagar, Thalatheru, Karaikal.
2. Pazhani  
S/o.Mahalingam, No.636, Aarcadu, Mullukudi,  
Thiruvaidaimarudoor, Kumbakonam.
3. Sriram General Insurance Co. Ltd., Pondicherry  
Rep. by its Branch Manager, having office at  
No.27, 100 Feet Road, Sundaraja Nagar,  
Mudaliarpeth, Pondicherry.

..Respondent(s)

PRAYER: To set aside the order dated 03.10.2023 made in M.C.O.P.No.18 of 2018 on the file of the Motor Accident Claims Tribunal, Sub Court, Karaikal and consequently to dismiss the above claim as against the appellant herein by setting aside the pay and recover portion of the order and thus render justice.

For Appellant(s): Mr.S.Ramprabu

For Respondent(s): M/s.B.Sivakollappan For R3  
R1 – Service awaited  
R2 - Deceased



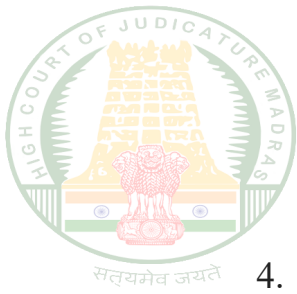
## **JUDGMENT**

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This appeal has been filed challenging the award passed by Sub Judge, Motor Accident Claims Tribunal, Karaikal in M.C.O.P.No.18 of 2018, dated 03.10.2023.

2. The first respondent is the claimant. The case of the first respondent is that on 10.08.2017, he was riding a two-wheeler from South to North at Bharathiyar main road, and at about 1.50 a.m., near the Pondicherry University, the offending vehicle which was a crane, was driven by the second respondent in a rash and negligent manner and hit the claimant as a result of which, the claimant sustained grievous injuries. It is under these circumstances; the claim petition came to be filed before the Tribunal.

3. The appellant who was the second respondent before the Tribunal filed counter affidavit to the effect that the driver of the crane was not responsible for the accident and there was no rash and negligent driving and therefore, the claim petition is devoid of merits and the same is liable to be dismissed.



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4. After having filed the counter affidavit, the appellant had chosen to remained exparte before the Tribunal.

5. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence came to the conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the crane.

6. The Tribunal also gave a finding that the driver of the offending vehicle did not possess a valid licence and also did not have a valid permit.

7. The Tribunal fixed the total compensation at Rs.2,72,800/- payable with interest at the rate of 7.5% per annum.

8. The Tribunal applied the principle of pay and recovery and Insurance Company was directed to pay the compensation and recover the same from the appellant.



9. The learned counsel for the appellant submitted that the Tribunal went wrong in coming to a conclusion that the driver of the crane did not possess a valid licence. Hence, the Tribunal ought not to have applied the principle of pay and recovery.

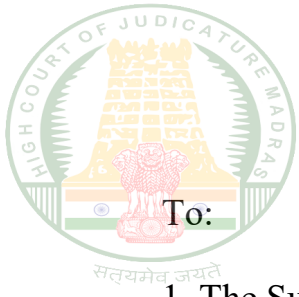
10. In the considered view of this Court, the appellant did not take any such stand, in the counter affidavit. The appellant was only questioning the issue of negligence. After filing the counter, the appellant did not choose to contest the case. Hence, the appellant cannot be permitted to raise any issue on merits before this Court in the present appeal. Therefore, considering the findings rendered by the Tribunal, the Tribunal was perfectly right in applying the pay and recovery principle. The same does not warrant interference of this Court.

11. In the result, this Civil Miscellaneous Appeal stands dismissed. 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 Sub Judge,  
Motor Accident Claims Tribunal,  
Karaikal.

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



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**N.ANAND VENKATESH, J.**

**SSI**

**CMA No. 1417 of 2025**

**30-06-2026**