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C.M.A.No.3904 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2026

CORAM

THE HONOURABLE MR . JUSTICE N.SATHISH KUMAR

AND

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

C.M.A.No.3904 of 2025

&

C.M.P.No.32969 of 2025

Tata AIG General Insurance Ltd.,
2nd Floor, Samson Towers
Pantheon Road
Chennai – 600 008

... Appellant

Versus

1. Anandhan
2. Kavitha
3. B.Dinesh Kumar

... Respondents

Civil Miscellaneous Petition filed under Section 173 of Motor Vehicles Act,1988 against the award dated 25.07.2025 passed in M.C.O.P.No.221 of 2022 on the file of the Motor Accidents Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

For Petitioner : Mr.S.Srinivasan



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JUDGMENT

(Judgment of the Court was made by **N.SATHISH KUMAR, J.**)

Challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal, the Insurance Company has filed the present appeal.

2. The brief facts of the case is as follows:

The claimants are the father and mother of the deceased. The deceased was unmarried and he was working as a Supervisor and Accountant at Allasai Aggregates, Chennai and was earning Rs.30,000/- per month. It is the case of the claimants that when the deceased was waiting at Pudupakkam Koot Road junction in his motorcycle bearing Registration No.TN 05 AT 3100, another Motorcycle bearing Registration No.TN14 Y 1446, which was coming in the opposite direction, driven in a rash and negligent manner, dashed against the deceased's motorcycle and as a result, the deceased sustained fatal injuries and died on the same day. Hence, the claimants, who are the father and mother of the deceased, filed a claim petition before the Motor Accident Claims Tribunal, Chennai.



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3. On behalf of the claimants, three witnesses were examined as PWs

1 to 3 and Exs.P1 to P14 were marked and on the side of the respondents, one witness was examined as RW1 and Exs.R1 to R5 were marked.

4. The Tribunal, after considering the evidence adduced on both sides, came to the conclusion that only the offending vehicle rider came in a rash and negligent manner, which resulted in the accident and awarded a sum of Rs.25,50,200/- as compensation. Challenging the same, the Insurance Company has filed the present appeal.

5. The Insurance Company has challenged the quantum of compensation mainly on the ground that the deceased suddenly took “U” turn which resulted in the accident and that apart he did not wear helmet. Therefore, according to learned counsel, fixing the liability on the appellant Insurance Company is not proper. It is further contented that the Insurance Company of the two wheeler in which the deceased was travelling has not been added as a party.

6. We have perused the entire materials available on record.



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7. The main contention placed before this Court by the learned counsel for the appellant is that there was a contributory negligence on the part of the deceased and further, the driver of the offending vehicle did not have a valid Driving Licence. Learned counsel relied upon the evidence of RW1, notice sent to the rider of the offending vehicle along with postal receipt and also the copy of the notice sent to the Regional Transport Office to find out whether the driver of the offending vehicle had any valid Driving Licence. Much reliance has been placed on the fact that Driving Licence has not been produced before the Motor Vehicle Inspector and it is further contended that the postmortem certificate of the deceased disclose ethyl alcohol in the vicera. Therefore, according to the learned counsel for the appellant, contributory negligence ought to have been fixed on the deceased.

8. When the Insurance Company has taken a plea that the driver of the offending vehicle was not having a valid Driving Licence, the said factum has to be established in the manner known to law. Merely sending a notice to the driver of the offending vehicle, which was unserved and also sending a notice to the Regional Transport Officer, will not discharge the burden. The Insurance Company ought to have examined the concerned Regional Transport Officer with relevant documents to show that there was



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no Driving Licence whatsoever issued to the driver of the offending vehicle at the relevant point of time. Without proving the said fact that the driver of the offending vehicle was not in possession of a valid Driving Licence, merely sending a notice will not discharge their burden. Therefore, merely on the ground that Driving Licence has not been produced before the Motor Vehicle Inspector, it cannot be said that the driver of the offending vehicle did not have a valid Driving Licence at all. No steps whatsoever have been taken to examine the offending vehicle driver to substantiate the stand of the Insurance Company. Further, to prove the contributory negligence, there must be evidence on the side of the Insurance Company. Merely on the basis of the pleading and without any substantive evidence in this regard, the contributory negligence cannot be presumed.

9. It is the specific case of the claimants that the deceased was waiting to take a “U” turn at the relevant point of time and at that time, the driver of the offending vehicle came in a rash and negligent manner without noticing the two wheeler of the deceased, hit the two wheeler which resulted in the accident. Such being the position, it cannot be said that a person, who was standing to take a U turn, has also contributed to the accident. In the absence of any evidence to prove the contributory negligence, mere



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pleadings is not sufficient to discharge the burden on the part of the Insurance Company. The Tribunal, in fact has considered the age of the deceased and fixed the notional income at Rs.15,972.87 and awarded a compensation of Rs.25,50,200/-. The quantum arrived at by the Tribunal, in our view, is reasonable and it cannot be said that the compensation awarded by the Tribunal is exorbitant.

In view of the above, we do not find any merits in the appeal and the same is dismissed. The appellant Insurance Company is directed to deposit the award amount together with interest to the credit of M.C.O.P.No.221 of 2022 on the file of Motor Accidents Claims Tribunal, Chief Judge, Court of Small Causes Court, Chennai. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

[N.S.K.,J.] [R.S.V.,J.]
05.01.2026

Index: Yes/No
Neutral Citation: Yes
gpa

To

The Motor Accidents Claims Tribunal,
Chief Judge, Court of Small Causes, Chennai
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