

C.M.A(MD)No.306 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2026

CORAM:

**THE HON'BLE MR JUSTICE N.ANAND VENKATESH
AND
THE HON'BLE MR JUSTICE K.K.RAMAKRISHNAN**

**C.M.A(MD)Nos.306 of 2022
and CMP (MD) No.2831 of 2022**

The Branch Manager
M/s.Shriram General Insurance Company Limited
Sithapura Junction, Jaipur District,
Rajasthan.

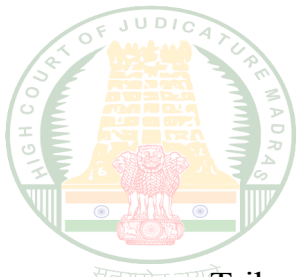
... Appellant

Vs.

1. Jeevarani
2. Minor. Dheetchana
3.Minor. Archana
(R2 & R3 minor represented through R1/mother)
4. Chinna Ponnu

... Respondents

PRAYER:- Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act to set aside the Award dated 31.08.2021 made in M.C.O.P.No.828 of 2018 on the file of the Motor Accident Claims



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Tribunal cum Principal District Court, Dindigul and allow the Civil Miscellaneous Appeal.

For Appellant : Mr.N.Shyllappakalyan

For Respondents : Mr.C.K.M.Appaji for R1 to R4

J U D G M E N T

**(Judgment of the Court was delivered by
N.ANAND VENKATESH, J.)**

This appeal has been filed by the insurance company against the award passed by the Motor Accident Claims Tribunal cum Principal District Court, Dindigul, in M.C.O.P.No.828 of 2018 dated 31.08.2021.

2. The first claimant is the wife, the second and third claimants are the daughters and the fourth claimant is the mother of the deceased, Elango. On 02.05.2018 at about 8.30 a.m., the deceased was travelling as a pillion rider in a two-wheeler and when the vehicle was near Natham Othakadai Sakkiliankottai Pirivu, the offending vehicle belonging to the fifth respondent herein was driven in rash and negligent manner and it



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dashed on the two-wheeler. As a result of which, the deceased sustained serious injuries and he succumbed to the injuries. It is under these circumstances, the claim petition came to be filed before the Tribunal.

3. The Tribunal on considering the facts and circumstances of the case and more particularly, considering the evidence of PW2 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 offending vehicle.

4. Having rendered the above finding, the Tribunal proceeded to fix the total compensation at Rs.29,64,518/- under the following heads:

Head	Amount
Loss of Dependency	Rs. 28,84,518/-
Loss of Estate	Rs.15,000/-
Loss of consortium	Rs.40,000/-
Funeral Expenses	Rs.15,000/-
Transport expenses	Rs.10,000/-
Total	Rs. 29,64,518/-



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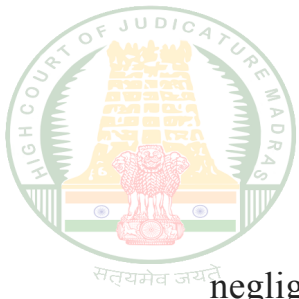
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The above compensation amount was directed to be paid with interest at the rate of 7.5% per annum. Aggrieved by the same, the insurance company has filed the present appeal.

5. The learned counsel for the appellant submitted that the Tribunal had entirely believed the evidence of PW2 and whereas, in the cross-examination, PW2 had admitted that he has been shown only as a mahazar witness in the criminal case. Therefore, it is evident that PW2 would not have seen the accident and his evidence is not reliable.

6. The learned counsel for the appellant/insurance company further submitted that the deceased had died only due to head injuries since he did not wear a helmet. Therefore, some percentage of contributory negligence is attributable to the deceased also.

7. Per contra, the learned counsel for the claimants submitted that the Tribunal had properly appreciated the evidence and came to the conclusion that the accident had taken place only due to the rash and



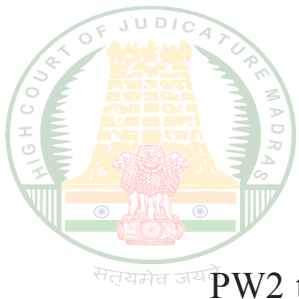
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negligent driving on the part of the driver of the offending vehicle. The learned counsel further submitted that the compensation fixed by the Tribunal is just and proper and it does not require the interference of this Court.

8. We have carefully considered the submissions made on either side and the materials available on record. We have also carefully gone through the award passed by the Tribunal.

9. The Tribunal, while appreciating the evidence available on record, placed reliance upon the evidence of PW2 and came to the conclusion that there was rash and negligent driving on the part of the driver of the offending vehicle. We have carefully gone through the evidence of PW2. During the cross-examination, PW2 states that his name has been included as a mahazar witness in the criminal case. Having made that statement, PW2 further clarified that he has seen the accident. In view of the same, just because PW2 has been included as a mahazar witness in the criminal case, that will not in any way disentitle



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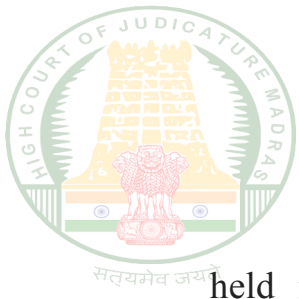
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PW2 to describe the manner in which the accident had taken place as an eyewitness. The rank of the witness and the purpose for which PW2 was added as a witness in the criminal case, will not have any bearing when the Court independently appreciates the evidence of the eyewitness in the motor accident case.

10. The Tribunal had also considered the fact that no contra evidence was let in on the side of the insurance company to dislodge the evidence of PW2.

11. In the light of the above discussion, we do not find any perversity in the findings rendered by the Tribunal with respect to the issue of negligence.

12. The next issue is regarding contributory negligence that is sought to be attributed against the deceased on the ground that he did not wear helmet. We had an occasion to deal with the issue in CMA. (MD).No.386 of 2026 dated 07.04.2026. We have



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held in clear terms that mere non-wearing of the helmet will not constitute contributory negligence and the Court has to see the over all manner in which the accident had taken place. Hence, this ground raised on the side of the appellant is also rejected.

13. We find that the compensation fixed by the Tribunal under various heads is just and proper and does not warrant interference of this Court.

14. In the result, this Civil Miscellaneous Appeal stands dismissed. It is brought to our notice that already a sum of Rs.20 lakhs has been deposited along with accrued interest pursuant to the interim order passed by this Court on 11.04.2022. Hence, there shall be a direction to the appellant/Insurance Company to deposit the remaining compensation amount along with interest to the credit of M.C.O.P No. 828 of 2018 on the file of the Motor Accident Claims Tribunal cum Principal District Court, Dindigul, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants



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will be entitled to withdraw the compensation amount in the proportion as fixed by the Tribunal. No costs. Consequently connected Miscellaneous Petition is closed.

[N.A.V., J.] [K.K.R.K., J.]
18.06.2026

NCC :Yes/No
Index :Yes/No
PKN



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To
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1. Motor Accident Claims Tribunal cum Principal District Court,
Dindigul.
2. The Record Keeper (Vernacular Records),
Madurai Bench of Madras High Court,
Madurai.



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AND
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