

C.M.A(MD)No.652 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.06.2026

CORAM:

**THE HON'BLE MR JUSTICE N.ANAND VENKATESH
AND
THE HON'BLE MRS JUSTICE S.SRIMATHY**

**C.M.A(MD)No.652 of 2021
and CMP.(MD).No.6202 of 2021**

The National Insurance Company Limited,
Thoothukudi,
175A, Great Cotton Road,
Thoothukudi.

... Appellant

Vs.

1.S. Anthony Grooze
S/o. Savari Muthu

2.Ramya
D/o. Mariappan

... Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1973, to set aside the award passed in M.C.O.P.No.291 of 2016 dated 04.01.2020 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Thoothukudi.

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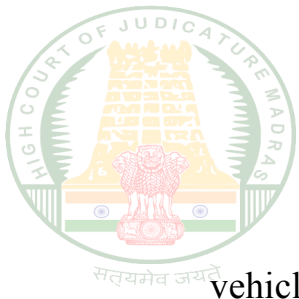
For Appellant : Mr.Mathialagan
For Respondents : Mr. R. Maheswaran
for R1
Mr. S. Muthumalairaja
for R2

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 challenging the award passed by the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Thoothukudi in M.C.O.P.No.291 of 2016 dated 04.01.2020.

2. The first respondent is the claimant. The case of the first respondent is that on 06.04.2016, at about 8.15 p.m., the first respondent was riding the two-wheeler. At that point of time, the second respondent who was riding another two-wheeler, drove the same in a rash and negligent manner and dashed against the two-wheeler of the first respondent, as a result of which the first respondent was thrown out of the



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vehicle and he sustained grievous injuries. The first respondent was initially taken to the Thoothukudi AVM Hospital and was later admitted as an in-patient in Madurai Meenakshi Mission Hospital on 07.04.2016 and Laxmi Poly Clinic on 23.05.2016 for further treatments. After undergoing a series of treatments, the first respondent was discharged from the hospital on 24.05.2016. Consequently, the first respondent is fully bed ridden and is in a vegetative state due to the accident. An FIR came to be registered in Crime No. 65 of 2016. 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 on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place due to the rash and negligent driving on the part of the driver of the offending vehicle belonging to the second respondent.



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4. Having rendered the above finding, the Tribunal proceeded to determine the compensation amount in the following manner:

Head	Amount
Compensation for Disability	Rs.16,80,000/-
Medical Expenses	Rs.2,83,947/-
Pain and Suffering	Rs.1,00,000/-
Attendant Charges	Rs.1,00,000/-
Transportation Expenses	Rs.20,000/-
Dietary Expenses	Rs.5,000/-
Total	Rs.21,88,947/-

The above compensation amount of Rs.21,88,947/- was directed to be paid along with interest at the rate of 7.5% per annum from the date of the petition. However considering the fact that the driver of the offending vehicle did not possess a valid driving license, pay and recover was ordered.

5. The Insurance Company has filed the present appeal mainly on the ground that the driver of the offending vehicle did not possess a valid driving license and therefore, pay and recover ought not to have been ordered.



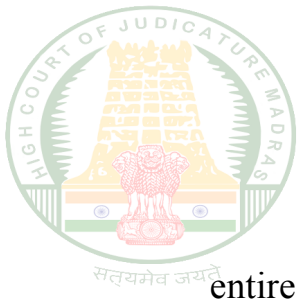
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6. This Court carefully considered the submissions made by the learned counsel appearing for the appellant and also the award passed by the Tribunal.

7. The ground that was taken by the learned counsel appearing for the appellant is to the effect that the Tribunal ought not to have ordered for pay and recover. The said ground is squarely covered by the judgment of this Court in a batch of appeals in CMA.(MD).No.517 of 2025 etc, dated 01.06.2026. Hence, this Court does not find any illegality in the order passed by the Tribunal applying the principle of pay and recover.

8. A ground has also been raised to the effect that the injured did not wear a helmet at the time of accident and therefore there is an element of contributory negligence that is attributable to the claimant. We are not in agreement with this submission. Considering the manner in which the accident had taken place and the fact that the tribunal has found that the



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entire negligence is attributable to the driver of the offending vehicle, just because the claimant did not wear helmet, that will not automatically result in attributing contributory negligence on the injured person. Useful reference can be made to the recent judgment passed in CMA(MD) No.386 of 2026 dated 25.03.2026.

9. Insofar as the quantum of compensation is concerned, this Court finds that the Tribunal has fixed a fair and just compensation and it does not require the interference of this Court.

10. It is brought to the notice of this Court by the learned counsel appearing for the Insurance Company that the entire award amount has already been deposited before the Tribunal.

11. In the result, this Civil Miscellaneous Appeal stands dismissed. The claimants will be entitled to withdraw the compensation



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amount in the proportion as fixed by the Tribunal. No costs. Consequently connected Miscellaneous Petition is closed.

[N.A.V., J.] [S.S.Y., J.]
08.06.2026

NCC :Yes/No

Index :Yes/No

RR

To

1.The Motor Accident Claims Tribunal, Chief Judicial Magistrate,
Thoothukudi

2.The Record Keeper (Vernacular Records),
Madurai Bench of Madras High Court, Madurai.



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AND

S.SRIMATHY,J.

RR

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