

C.M.A(MD)No.1180 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
WEB COPY

DATED : 15.06.2026

CORAM:

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

**C.M.A(MD)Nos.1180 of 2025
and CMP (MD) No.16519 of 2025**

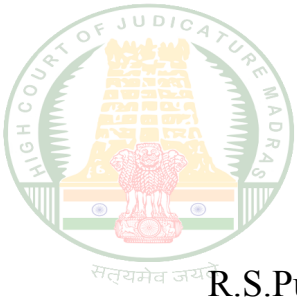
National Insurance Company Limited
Rep. by its Manager,
Office at YMR Patti,
Sub Collector Office Road,
Dindigul Town, Dindigul District.

... Appellant

Vs.

1. S.Dhanam
2. V.Sekar
3. Jayakumar
4. K.Aravind
5. T.Selvan
6. Manokaran
7. The Branch Manager,
Future General Insurance Company Ltd.,
No.204 D.B.Road,
3rd Floor, Athiswari Tower

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R.S.Puram,
Coimbatore Town and District.

... Respondents

PRAYER:- Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act to set aside the award passed the judgment and decree made in M.C.O.P.No.41 of 2022 dated 04.02.2025 on the file of Motor Accident Claims Tribunal/Sub Court, Periyakulam allow this appeal

For Appellant : Mr. N.S.Ramakrishna Dass

For Respondents : Mr.S.Muthiah Poosari Amalan
for Mr.P.Muthu Saravanan
for R1 to R3

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 / Sub Judge, Periyakulam in MCOP No.41 of 2022 dated 04.02.2025.



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2. The respondents are the claimants. The first and second respondent are the parents of the deceased, third respondent is the sibling of the deceased. The case of the respondents is that on 22.05.2022, at about 4.15 p.m., the deceased was the driver of the auto rickshaw belonging to the sixth respondent and at that point of time, the tourist van belonging to the fifth respondent was driven by the fourth respondent in a rash and negligent manner and dashed against the auto rickshaw from the opposite direction, as a result of which, the deceased sustained fatal injuries and succumbed to the injuries. An FIR came to be registered in Crime No. 191 of 2022. It is under these circumstances, the claim petition came to be filed before this 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 only due to the rash and negligent driving on the part of the driver of the offending vehicle.



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4. Having rendered such finding, the Tribunal fixed the total compensation at Rs.18,32,118/- under the following heads:

Head	Amount
Loss of dependency	Rs. 22,55,148/-
Funeral expenses	Rs.15,000/-
Loss of Estate	Rs.15,000/-
Transportation Expenses	Rs.5,000/-
Total	Rs.22,90,148/-
20% deducted for contributory negligence	Rs.4,58,030/-
Total	Rs.18,32,118/-

5. The above compensation was directed to be paid along with interest at the rate of 7.5% per annum. However considering the fact that the driver of the offending vehicle did not possess a valid driving licence and fitness certificate, pay and recover was ordered. Furthermore, the tribunal fixed contributory negligence on the part of the deceased as he did not possess a valid driving license at the time of accident.



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6. 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, fitness certificate and also the deceased did not possess a valid driving license . Therefore, pay and recover ought not to have been ordered.

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

8. 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.



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9. Insofar as the first ground that was raised by the learned counsel appearing for the appellant, the same is squarely covered by the judgment passed by this Court in a batch of appeals in CMA.(MD).No. 517 of 2025 etc, dated 01.06.2026, wherein, this Court has sustained the principle pay and recover ordered by the Tribunal in similar circumstances.

10. Another ground has also been raised to the effect that the tribunal has failed to note that the deceased had no valid driving license at the time of accident. However, it is seen that the tribunal has rightly come to the conclusion of contributory negligence after appreciating the evidences submitted on both sides.

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



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12. 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.

13. In the result, this Civil Miscellaneous Appeal stands dismissed. The Claimants 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.]
15.06.2026

NCC :Yes/No
Index :Yes/No
PKN

To

1. Motor Accident Claims Tribunal/Sub Court, Periyakulam.
2. The Record Keeper (Vernacular Records),
Madurai Bench of Madras High Court,
Madurai.

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AND
K.K.RAMAKRISHNAN,J.

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