



C.M.A(MD)No.728 of 2025 & Cros.Obj(MD)No.36 of 2025

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 30.01.2026**

**CORAM:**

**THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN  
AND  
THE HONOURABLE MS.JUSTICE R.POORNIMA**

**C.M.A(MD)No.728 of 2025 &  
Cros.Obj(MD)No.36 of 2025  
and  
C.M.P(MD)Nos.11518 & 18462 of 2025**

**1.C.M.A(MD)No.728 of 2025:**

The Divisional Manager,  
TP HUB,  
M/s.United India Insurance Company Limited,  
No.7-A, West Veli Street,  
Madurai – 625 001. ... Appellant/2<sup>nd</sup> Respondent

-VS-

1.M.Petchi  
2.Minor M.Muthupandi  
3.Minor M.Muthupriya ... Respondents 1 to 3/Petitioners  
4.Pandi ... 4<sup>th</sup> Respondent/1<sup>st</sup> Respondent  
5.Kali ... 5<sup>th</sup> Respondent/3<sup>rd</sup> Respondent

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(Minor R2 & R3 are represented by R1)

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PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 03.03.2025 passed in M.C.O.P.No.2067 of 2023 on the file of the Motor Accidents Claims Tribunal (Special District Court), Madurai.

For Appellant : Mr.I.Robert Chandrakumar

For R – 1 to R – 3  
& R - 5 : Mr.K.Kumaravel

**2.Cros.Obj(MD)No.36 of 2025:**

- 1.M.Petchi
- 2.Minor M.Muthupandi
- 3.Minor M.Muthupriya ... Cross Appellants/Respondents

(Minor P2 & P3 are represented by P1)

-VS-

- 1.The Divisional Manager,  
TP HUB,  
M/s.United India Insurance Company Limited,  
No.7-A, West Veli Street,  
Madurai – 625 001. ... 1<sup>st</sup> Respondent/Appellant

- 2.Pandi ... 2<sup>nd</sup> Respondent/4<sup>th</sup> Respondent



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... 3<sup>rd</sup> Respondent/5<sup>th</sup> Respondent

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PRAYER: Cross Appeal filed under Order 41 Rule 22 of C.P.C as against the order in M.C.O.P.No.2067 of 2023 on the file of the Motor Accidents Claims Tribunal (Special District Court), Madurai, dated 03.03.2025.

For Appellant : Mr.K.Kumaravel

For R – 1 : Mr.I.Robert Chandrakumar

### **COMMON JUDGMENT**

**(Judgment of the Court was delivered by  
G.K.ILANTHIRAIYAN, J.)**

C.M.A(MD)No.728 of 2025 has been filed by the appellant/Insurance Corporation challenging the award passed in M.C.O.P.No.2067 of 2023, dated 03.03.2025 on the file of the Motor Accidents Claims Tribunal (Special District Court), Madurai.

2.Cross Objection(MD)No.36 of 2025 has been filed by the respondents 1 to 3 seeking for enhancement of the award passed in



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M.C.O.P.No.2067 of 2023, dated 03.03.2025, on the file of the Motor Accidents Claims Tribunal (Special District Court), Madurai.

3.Both the appeal and cross objection arise out of the same award and as such, a common order is passed.

4.For the sake of convenience and brevity, the parties hereinafter are referred to as per their status / ranking in C.M.A(MD)No.728 of 2025.

5.The respondents 1 to 3 are the claimants who filed a claim petition seeking compensation to the tune of Rs.50,00,000/- as against the appellant and the fourth respondent for the demise of the husband of the first claimant. The case of the claimants is that on 08.07.2022 at about 21.00 hours, when the deceased was riding his motorcycle bearing Registration No.TN-63-D-3413 on the Sivagangai - Madurai main road, on the left hand side of the road,



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proceeding from east to west, the fourth respondent's vehicle bearing Registration No.TN-63-F-8304, which came from the opposite direction ie., from west to east, driven by its driver in a rash and negligent manner, dashed against the deceased's vehicle. Due to the said accident, the deceased sustained multiple injuries and was immediately taken to the Government Rajaji Hospital Madurai. He was admitted as an inpatient from 08.07.2022 to 12.07.2022. However, inspite of treatment, he succumbed to the injuries on 12.07.2022. Based on the complaint, an F.I.R was registered.

6.In order to substantiate their claim, the claimants examined P.W.1 and P.W.2 and marked Exs.P1 to P13. On the side of the respondents therein, R.W.1 was examined and Ex.R.1 to Ex.R.3 were marked.

7.On perusal of the oral and documentary evidence, the Tribunal concluded that the accident occurred due to the negligence



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on the part of the appellant's vehicle to the extent of 80% and 20% negligence on the part of the deceased. The Tribunal awarded compensation of Rs.28,21,680/- and after deducting 20% towards contributory negligence, fixed the liability to the tune of Rs.22,57,344/-. Aggrieved by the same, the present appeal has been preferred.

8.The learned counsel appearing for the appellant submitted that the Tribunal, without any proper evidence, fixed contributory negligence to the extent of 80% on the appellant's vehicle. The rough sketch which was marked as Ex.R.2 clearly shows that the deceased was riding the motorcycle on the wrong side of the road and dashed against the appellant 's vehicle. Therefore, the entire negligence rests only on the part of the deceased. In fact, the F.I.R was registered only as against the deceased and all the charges abated as against him due to his death. However, without considering the above facts and circumstances, the Tribunal



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erroneously awarded compensation as against the vehicle insured with the appellant.

9.Per contra, the learned counsel appearing for the claimants, who are also the petitioners in the cross objection, submitted that the accident occurred solely due to the negligence on the part of the appellant's vehicle. Even then, the Tribunal erroneously fixed contributory negligence of 20% on the part of the deceased. One of the eyewitnesses to the occurrence had deposed as P.W.2, who categorically deposed that the accident occurred only due to the rash and negligent driver of the appellant's vehicle, as a result of which the deceased succumbed to his injuries. Therefore, the Tribunal ought to have fixed the entire liability on the part of the appellant's vehicle.

10.Heard the learned counsel appearing on either side and perused the materials placed on record.

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11.After considering the oral and documentary evidence, the Tribunal fixed contributory negligence to the extent of 80% on the part of the appellant's vehicle and 20% on the part of the deceased vehicle. Immediately after the occurrence, the rider of the appellant's vehicle lodged a complaint, which was registered in Crime No.67 of 2022 for the offences punishable under Sections 279, 337 and 304-A of I.P.C. as against the deceased. After completion of the investigation, it was concluded that the accident occurred solely due to the negligence of the deceased and since he had died, all the charges abated as against him. The rough sketch was marked as Ex.R2.

12.A perusal of Ex.R2 reveals that when the deceased was riding his motorcycle from east to west on the Sivagangai – Madurai main road, the appellant's vehicle was proceeding from west to east. The deceased went to his right side ie., the wrong side of the road



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and dashed against the appellant's two-wheeler. Due to the impact, he sustained grievous injuries and subsequently died. However, the Tribunal failed to consider the F.I.R and the rough sketch and erroneously concluded that the accident occurred only due to the contributory negligence on the part of both vehicles.

13.Further, in order to prove their claim, the claimants examined P.W.2 as an alleged eyewitness to the occurrence. He deposed before the Tribunal that the appellant's vehicle was ridden on the wrong side of the road and dashed against the deceased's vehicle. Thereafter, the persons present at the scene called the 108 ambulance and the deceased was taken to the hospital. He further stated he immediately informed P.W1 about the accident. However, P.W.2 neither lodge any complaint nor made any statement before the police who registered the FIR. Further, he is a close relative of the deceased. Therefore in order to prove the claim petition, the claimants cooked up the evidence of P.W.2 and examined him as if



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he had seen the accident. If at all he had witnessed the accident, definitely he would have lodged a complaint immediately.

14.Only on the complaint lodged by the rider of the appellant's vehicle, the F.I.R got registered and the investigation concluded that the accident took place only on the negligence of the deceased. This is also corroborated by the rough sketch which was marked as Ex.R2. Hence, the evidence of P.W.2 cannot be believable one. However the Tribunal, only on the basis of the evidence of P.W.2, concluded that the accident occurred due to the negligence of both the appellant's vehicle rider and the deceased.

15.In view of the above, the findings of the negligence to the extent of 80% fixed on the part of the appellant's vehicle rider is set aside. Consequently, the claim petition is dismissed as against the respondents in the claim petition.



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16.In fine, the award passed in M.C.O.P.No.2067 of 2023, dated 03.03.2025 on the file of the Motor Accidents Claims Tribunal (Special District Court), Madurai, is set aside and C.M.A(MD)No. 728 of 2025 is allowed.

17.In view of the above, Cross Objection (MD)No.36 of 2025 is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

**[G.K.I.J.] & [R.P.J.,]**  
**30.01.2026**

NCC :Yes/No  
Index :Yes/No  
Internet :Yes  
ps  
To

1.The Motor Accidents Claims Tribunal  
(Special District Court),  
Madurai.

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

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**G.K. ILANTHIRAIYAN, J.**  
**AND**  
**R. POORNIMA, J.**

ps

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**30.01.2026**