

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 20.02.2026

Pronounced on : 05.06.2026

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CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

C.M.A.(MD)No.200 of 2025

and

CMP(MD)Nos.3262 and 17804 of 2025

The United India Insurance Co., Ltd.,
Thro' It's Branch Manager,
Nagercoil Branch for
Marthandam Branch,
1st Floor, Xavier Building,
PWD Road.

... Appellant/3rd Respondent

Vs.

1.Selvaraj,
S/o.Royappan,
Vadakkekonamvilai,
Sanalkarai, Maniyankuzhi Post,
Pechipparai Village,
Kalkulam Taluk,
Kanyakumari District.

2. Vimala,
W/o.Selvaraj,
Vadakkekonamvilai,
Sanalkarai, Maniyankuzhi Post,
Pechipparai Village,
Kalkulam Taluk,
Kanyakumari District.

...1st & 2nd Respondents/
1st & 2nd Petitioners

3. Suresh Kumar,
S/o.T.Krishnan,
Door No.4/15, Ambadi,
Sakkarapani, Maniyankuzhi Post,
Kaliyal Village,
Vilavancode Taluk,
Kanyakumari District (Driver)



C.M.A.(MD)No.200 of 2022

4. Lenin Francis,
S/o.Francis,
Christian,
Door No.1391, Girija Bhavan,
No.39, Salai,
Thiruvananthapuram District,
Kerala State (Owner)

...3rd & 4th Respondents/
1st & 2nd Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree, dated 19.07.2022 passed in MCOP.No.218 of 2019 on the file of the Motor Accident Claims Tribunal/The Special Court (Forest Cases), Nagercoil.

For Appellant	: Mr.C.Karthik
For R1 & R2	: Mr.M.Manikandan
R3	: Dispensed With
For R4	: No Appearance

JUDGMENT

This Civil Miscellaneous Appeal is preferred against the award, dated 19.07.2022 passed in M.C.O.P.No.218 of 2019 by the Motor Accident Claims Tribunal/The Special Court (Forest Cases), Nagercoil.

2.The 3rd respondent/United India Insurance Company in M.C.O.P.No.218 of 2019 is the appellant herein.

3.The petitioners/claimants are respondents 1 & 2 herein, who filed the claim petition in M.C.O.P.No.218 of 2019. The respondents 1 & 2 in M.C.O.P.No.218 of 2019 are the respondents 3 & 4 herein.



C.M.A.(MD)No.200 of 2023

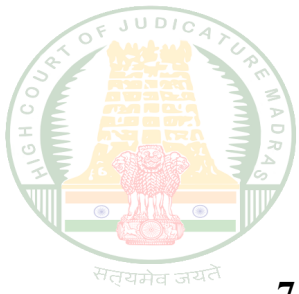
4.For the sake of convenience, the parties as arrayed in M.C.O.P.No.218 of 219 are adopted hereunder.

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5.The brief facts of the case:

On 28.07.2017, the deceased Vincent Raj was travelling as a passenger in a Maruthi Alto car bearing registration number TN 74 V 7180, which was driven by one R.Vithukumar from Thirparappu - Kulasekaram road from south to north. At about 08.15 hours, when the car reached in front of Sudeer Lathe at Manchakonam, the 2nd respondent's lorry bearing registration No.KL 21 B 7178, coming from the opposite direction, north to south, driven by its driver/1st respondent in a rash and negligent manner at high speed, hit against the Maruthi car. Due to the impact, the deceased Vincent Raj died from fatal injuries. An F.I.R. in Crime No.226 of 2017 U/s.279, 337, 338 and 304(A) of IPC was registered against the 1st respondent/driver of the lorry by Kulasekaram Police Station. The deceased was a JCB Operator and was earning Rs.25,000/- p.m. Hence, the petitioners, who are the parents of the deceased Vincent Raj, filed a claim petition seeking compensation of Rs.50,00,000/-.

6.The respondents 1 & 2 before the Tribunal remained ex-parte.

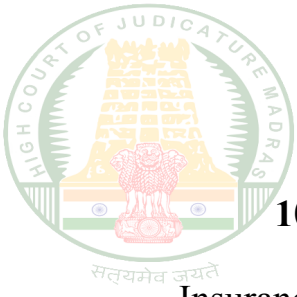


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7.The 3rd respondent/Insurance Company objected to the claim petition and contended that the accident took place due to the rash and negligent driving of the Maruthi car driver, who drove the car at the center of the road and invited the accident on head on collision. The driver of the lorry was not responsible for the accident. Moreover, the petition is bad for the non-joinder of the owner and the insurer of the Maruthi car. Therefore, the petitioners are not entitled to any claim from the 3rd respondent/Insurance Company.

8.Before the Tribunal, both sides adduced oral and documentary evidence. The petitioners examined two witnesses as P.W.1 and P.W.2 and marked 16 documents as Ex.P.1 to Ex.P.16. On the 3rd respondent's side, no witness was examined and no document was marked.

9.After hearing both sides and after considering the evidence, the Tribunal has held that the accident took place due to the rash and negligent driving of the 1st respondent/driver of the 2nd respondent's lorry and so, the 3rd respondent is liable to pay compensation. The Tribunal has arrived at total compensation of Rs.15,88,400/- to the petitioners with interest and cost.



C.M.A.(MD)No.200 of 2020

10.Aggrieved by the said award, the 3rd respondent/The United India Insurance Company has preferred this Civil Miscellaneous Appeal.

11.Heard both sides and perused the records in this Civil Miscellaneous Appeal.

12.The learned counsel appearing for the appellant/ 3rd respondent/Insurance Company has argued that there is no dispute regarding the quantum of the award, the only dispute raised is to fix 50% contributory negligence on the part of the driver of the car, in which the deceased travelled. The specific plea of the 3rd respondent/Insurance Company is that the accident took place at centre place of the road, which was substantiated by evidence of eye witness P.W.2 and Ex.P.3 - Rough sketch. P.W.2 categorically admitted that “நடுரோட்டில்தான் விபத்து நடந்தது என்றால் சரிதான்.” The rough sketch Ex.P.3 also mentioned that the occurrence place is at the center point of the road. The Motor Vehicle Inspector's report of the lorry and car Ex.P.5 & Ex.P.6, shows that the front portion of both vehicles was damaged. So, the accident happened head on collision and hence, the drivers of both vehicles were responsible for the accident, which is clear composite negligence. Therefore, 50% of the liability is to be fixed on the driver and insurer of the Maruthi car bearing registration



C.M.A.(MD)No.200 of 2025

number TN 74 V 7180. Eventhough the 3rd respondent/Insurance Company specifically contended that this claim petition is bad for non-joinder of the owner and insurer of the car, the petitioners/claimants have not taken steps to implead them and also the Tribunal has not considered the same. Therefore, this Civil Miscellaneous Appeal may be allowed and to modify the award by fixing 50% liability on the appellant/3rd respondent/Insurance Company.

13.The learned counsel for the petitioners/claimants has submitted that the Tribunal has clearly discussed the evidence of P.W.2 regarding the accident that took place in the middle of the road. The Tribunal has also explained that the appellant/3rd respondent/Insurance Company has not suggested that the car was driven beyond the center point from its correct side and hit against the lorry and thereby held that the accident took place due to the negligence on the part of the lorry driver. The learned counsel further submitted that the petitioners are aged parents of the deceased Vincent Raj and even though the 3rd respondent/Insurance Company pleaded joint tortfeasor, the victim can claim compensation either from joint tortfeasors or any one of them by relying on the judgment passed by the Principal Seat of this Court in a batch of Civil Miscellaneous Appeals in CMA.Nos.2843 of 2022, dated 02.06.2025. Therefore, the compensation awarded by the



Tribunal need not be interfered with. Hence, the Civil Miscellaneous Appeal may be dismissed.

14.On hearing both sides and on perusal of the records, it is clear that the accident took place while the deceased was travelling in the Maruthi Car bearing registration number TN 74 V 7180. In this case, two vehicles, i.e., Maruthi car and lorry, were involved. It is the specific case of the appellant/3rd respondent/United India Insurance Company that the accident took place at the middle of the road, which was admitted by eye witness P.W.2 and is also revealed from Ex.P.3 - Rough sketch and hence, 50% negligence may be fixed on both drivers. The petitioners' counsel argued that the Tribunal has properly discussed and explained its reason for holding responsibility on the driver of the lorry.

15.On perusal of the order, the Tribunal has observed that when a question was put regarding whether the accident was caused by two vehicles, the answer would be affirmative. The Tribunal has appreciated the evidence of P.W.2 and held that the Insurance Company has not put a suggestion that the Maruthi car was coming beyond its side crossing the middle of the road and dashed against the lorry and also observed that the motor vehicle reports of both vehicles show that the car's front portion was fully damaged whereas



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the front portion of lorry was slightly damaged and thereby held that the accident took place due to the rash and negligent driving of the lorry.

The finding of the Tribunal is correct and the same is upheld. Because the 3rd respondent/Insurance Company has not lodged any complaint against the driver of the car and also has not examined any witness on its side muchless marked any document to substantiate their case. Moreover, it is a settled principle that when two vehicles are involved in an accident, the bigger one is to be held responsible.

16.The argument of the counsel for the petitioners/claimants that even though there are joint tortfeasors the victim can claim from any of the tortfeasors or from both is a reasonable one considering the citation relied on by them. On perusal of the said judgment in a batch of Civil Miscellaneous Appeals in **CMA.Nos.2843 of 2022**, it is clear from paragraph No.16 of that order that the senior brother Judge of the Principal Seat of this Court has followed the principle of the Supreme Court in **Khenyei vs. New India Assurance Company Ltd., and Others** case reported in **CDJ 2015 SC 428**, in which it is held as

“In the case of composite negligence, Plaintiff/claimant is entitled to sue both or any one of the joint tort feasors and to recover the entire compensation as liability of joint tort feasors is joint and several.”



C.M.A.(MD)No.200 of 2025

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17.The appellant/3rd respondent/Insurance Company has not produced contra evidence for fixing negligence on both drivers of the vehicles. So, there is no error on the part of the Tribunal in holding negligence on the driver of the lorry. Therefore, this Court is of the considered view that the negligence concluded by the Tribunal is sustainable and there is no need to interfere in it. In respect of compensation, the Tribunal arrived at just compensation, which is not in dispute by the appellant/3rd respondent/Insurance Company. Therefore, the compensation awarded by the Tribunal is held correct and the same is not liable to be set aside.

18.In the result, this Civil Miscellaneous Appeal is dismissed and the award, dated 19.07.2022 passed in M.C.O.P.No.218 of 2019 by the Motor Accident Claims Tribunal/The Special Court (Forest Cases), Nagercoil is confirmed. No costs. Consequently, the connected Civil Miscellaneous Petitions are closed.

05.06.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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C.M.A.(MD)No.200 of 2023

To

- 1.The Motor Accident Claims Tribunal/
The Special Court (Forest Cases),
Nagercoil.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A.(MD)No.200 of 2025

P.VADAMALAI, J.

VSD

Pre - Delivery Judgment made in
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