



CMA(MD)No.1222 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :04.02.2026

CORAM:

THE HONOURABLE MR JUSTICE G.K. ILANTHIRAIYAN

AND

THE HONOURABLE MS.JUSTICE R. POORNIMA

CMA(MD)No.1222 of 2025

and

CMP(MD) Nos.17147 of 2025 and 1026 of 2026

The Branch Manager
United India Insurance Company Limited,
Kumbakonam

... Appellant

vs.

1.Gopi @ Gopinath
2.Duraimurugan
3. The Branch Manager
Oriental Insurance Company Limited,
Kumbakonam

..Respondents

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the fair and decretal order dated 29.01.2025 passed in MCOP No.95 of 2021 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Kumbakonam



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For Appellant : Mr.I. Suthakaran
For R1 : Mr.A.N.Ramanathan
For R2 : No appearance
For R3 : Mr. V.Sakthivel

JUDGMENT

[Judgment of the Court was made by G.K. ILANTHIRAIYAN, J.]

This Civil Miscellaneous Appeal has been preferred as against the award passed in MCOP No.95 of 2021, on the file of the Motor Accidents Claims Tribunal(Principal Subordinate Judge), Kumbakonam

2. The first respondent/claimant filed claim petition stating that on 03.04.2021 at about 1.00 pm., when the first respondent was riding his two wheeler bearing Reg.No TN 50 AH 4534 towards Kumbakonam from east to west, in the opposite direction near Sankarangudi Marriage Hall on the left side of the road, the vehicle insured with the appellant was driven by its driver bearing Reg.No. TN 61 R 3915 Ashok leyland lorry in a rash and negligent manner and dashed against the two wheeler, thereby the first respondent was thrown out and sustained injuries.



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3. On complaint, First Information Report was registered in Crime No.122 of 2021 for the offences under Sections 279 and 337 of IPC, on the file of the Inspector of Police, Thiruneelakudi Police Station and after completion of investigation final report was filed. Thereafter the first respondent herein filed claim petition seeking compensation of Rs.80,00,000/-

4. In order to prove the same, the first respondent was examined as P.W.1 and through him 18 documents were marked as Ex.P.1 to P.18. On the side of the appellant, no one was examined but one document was marked.

5. On perusal of oral and documentary evidence, the Tribunal concluded that the accident had occurred only due to rash and negligent driving of the appellant's vehicle and fasten the entire liability on the appellant and had awarded a sum of **Rs.42,15,805/-** as compensation. Aggrieved by the same, the present appeal has been filed.



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6. The learned counsel appearing for the appellant would submit that the appellant is the insurer of the offending vehicle, who is arrayed as a second respondent in the claim petition. Though the First Information Report got registered as against the second respondent vehicle and also charge-sheeted as against the driver of the second respondent, he mainly relied on the rough sketch, which was marked as Ex.P.6, and it reveals that the accident took place on the injured right side ie., north side of the road when the injured was riding his motor cycle from east to west. At that time, the appellant lorry was driven by its driver from west to east on the left hand side, therefore the injured was riding motor cycle on his wrong side and as such, the accident had occurred. Further the injured also do not possess any valid license. The rider of the two wheeler also paid a fine of Rs.500/-. In support of the contention, he also relied upon the M.V report which was marked as Ex.P.5. It shows that the injured had paid a sum of Rs.500/- for non possession of driving license to the two wheeler. Therefore, the Tribunal ought to have fixed the entire liability on the appellant.



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7. Per contra, the learned counsel appearing for the claimant submitted that it is a single road and due to the accident, the entire two wheeler got damaged. The claimant also sustained grievous injuries. Therefore, the accident had occurred only due to negligence on the part of the driver of the appellant. In fact, the police had registered First Information Report as against the driver of the appellant and also charge sheeted as against him, which clearly shows that the entire negligence is only on the part of the driver of the appellant and the Tribunal had rightly fixed liability on the part of the appellant.

8. The first respondent has marked the rough sketch as Ex.P.6. It clearly reveals that the first respondent was riding his motor cycle from east to west towards Kumbakonam on the right hand side i.e., northern side of the road i.e., wrong side on his part. At this juncture, the appellant vehicle was driven by its driver from west to east towards Karaikal on the northern side of the road i.e., left hand side. The first respondent was riding his motor cycle on his wrong side and dashed against the lorry.



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9. Only because the offending vehicle is a four wheeler mechanically First Information Report was registered as against the driver of the appellant vehicle and also charge-sheeted. Admittedly the rider of the first respondent did not possess any valid license. The M.V report of the two wheeler was marked as Ex.P.5. It reveals that the first respondent do not even possess license to ride the motor cycle and as such, he also paid a fine of Rs.500/- .Therefore the Tribunal ought not to have fasten the entire liability on the part of the appellant vehicle. However, the appellant also ought to have driven the lorry by following traffic rules. The appellant lorry also failed to drive its lorry in a normal speed and committed the accident.

10. Further, one of the relative of the respondent also lodged a complaint and the same got registered in Crime No.122 of 2021. The person who lodged the complaint was not examined by the claimant.

11. In view of the same this Court is inclined to fix 50% liability on the appellant vehicle and 50% to the respondent vehicle



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12. In the result, the Civil Miscellaneous Appeal is **partly allowed** by fastening the liability at 50:50% on the first respondent/claimant and appellant and therefore the claimant is entitled for a sum of **Rs.21,07,900/-** (Rupees Twenty one Lakhs seven Thousand and Nine Hundred only) as compensation along with interest @ 7.5% per annum from the date of petition till realization. The appellant/insurance company is directed to deposit the modified award amount with interest and costs, within a period of two months from the date of this judgment, less the award amount, if any already deposited. On such deposit being made, the 1st respondent/claimant is permitted to withdraw entire amount by filing proper application before the Tribunal. Excess amount if any, already deposited shall be refunded to the appellant forthwith. No costs. Consequently, connected Miscellaneous Petitions are closed.

[G.K.I., J.] [R.P., J.]

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Index : Yes / No
Neutral Citation : Yes / No
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