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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27-10-2026

CORAM

THE HON'BLE MR JUSTICE ABDUL QUDDHOSE

AND

THE HON'BLE MR.JUSTICE RAJNISH PATHIYIL

CMA(MD) No. 1236 of 2023

CNR:{HCMD011228222023}

AND

CROS.OBJ(MD) NO. 15 OF 2024,CMP(MD) NO. 11462 OF 2025,CMP(MD) NO. 16318 OF 2023

The Branch Manager
Shri Ram Geneal Insurance Complany Ltd.,
No.C-142, 1st floor,
Jayashri Towers,
6th Cross,
Thillai Nagar,
Trichy.

..Appellant(s)

Vs

1. Minor.Saravanan
   Rep.by his next friend and his father kandasamy,
   No.1-145, Veeriyapatti,
   Kaniyalampatti,
   Manjanaikenpatti,
   Karur.

2. Sri Ganesh Murugan Blue metals
   No.268, Puthukkanalli,
   Karuduyampalayam post,
   Aravakurichi Taluk,
   Karur.

3. The Branch manager
   National Insurance Company Ltd.,
   office at No.63, Rasi Plaza,
   west Pradahkshinam Road,
   Karur.

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4. S.Manikandan
   S/o.Sathapillai,
   Kannimarpalayam,
   Landaakottai,
   Dindigul.

..Respondent(s)

CROS.OBJ(MD) No. 15 of 2024

Minor.Saravanan
rep by his next friend his father Kandasamy,
1-145, Veeriyapatti,
Kaniyalampatti,
Manjanaickenpatti,
Karur.

..Petitioner(s)

Vs

1. The Branch Manager
   Shriram General Insurance Company Ltd.,
   C-142, First Floor Jayashri Towers,
   6th Cross,
   Thilai Nagar,
   Trichy.

2. Sri Ganesh Murugan Blue metals
   No.268, Puthukkanalli,
   Karuduyampalayam post,
   Aravakurichi Taluk,
   Karur-639 111

3. The Branch Manager
   National Insurance Company ltd.,
   No.63, Rasi Plaza,
   West Pradhakshinam Road,
   Karur-639 002

4. S.Manikandan
   S/o.Sathapillai,
   Kannimarpalayam,
   Landaakottai,
   Dindigul-624 620

..Respondent(s)

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CMA(MD) No. 1236 of 2023

PRAYER: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicles Act to set aside the decree and judgment in MCOP No.175 of 2020 dated 21.04.2023 on the file of Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Karur.

CROS.OBJ(MD) No. 15 of 2024

PRAYER: Cross objection filed under Order XLI Rule 22 of Civil Procedure Code. to allow this Cross Objection and modify the judgment and decree dated 21.04.2023 in M.C.O.P.No.175 of 2020 on the file of Motor Accident Claims Tribunal / Chief Judicial Magistrate, Karur and enhance the compensation amount.

CMA(MD) No. 1236 of 2023

For Appellant(s): Mr.N.Shyllappakalyan

For Respondent(s): Mr.N.Sudhagar Nagaraj
For R1

Mr.J.S.Murali
For R3

For R-2 and R-4 – No Appearance

CROS OBJ(MD).No.15 of 2024

For Petitioner : Mr.N.Sudhagar Nagaraj

For R-1 : Mr.N.Shylappakalyan

For R-3 : Mr.J.S.Murali

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COMMON JUDGMENT

(Common Judgment of the Court was made by Abdul Quddhose J.)

C.M.A.(MD).No.1236 of 2023 has been filed challenging the impugned award passed by the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Karur, in MCOP.No.175 of 2020 dated 21.04.2023.

2. The appellant / Insurance Company, has challenged the impugned award, questioning its liability to pay compensation to the first respondent / claimant. According to the appellant / Insurance Company, the first respondent / claimant sustained injuries only as a result of the accident caused by the vehicle owned by the second respondent and insured with the third respondent / Insurance Company. According to the appellant / Insurance Company, there was no pleading in the claim petition filed by the first respondent / claimant that the vehicle insured with the appellant was responsible for the cause of the accident, which resulted in the first respondent sustaining injuries.

3. The learned counsel appearing for the appellant / Insurance Company also drew the attention of this Court to the claim petition filed by the first respondent / claimant before the Tribunal and would submit that, even as per the claim petition, the appellant / Insurance Company

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was arrayed as a respondent only as a formal party. Therefore, the learned counsel appearing for the appellant would submit that the Tribunal had erroneously fixed 50% contributory negligence on the part of the driver of the vehicle insured with the appellant / Insurance Company, which is incorrect. According to him, the entire liability ought to have been fixed on the third respondent / Insurance Company, which had insured the vehicle owned by the second respondent.

4. The learned counsel appearing for the appellant would also submit that the appellant was taken by surprise when P.W.4, during cross-examination, deposed for the first time that the driver of the vehicle insured with the appellant was also responsible for the accident. Therefore, he would submit that the appellant was not given any opportunity to dispute the evidence of P.W.4 by filing a counter statement denying that the driver of the vehicle insured with the appellant was not responsible for the cause of the accident. The Tribunal had erroneously fixed 50% contributory negligence on the part of the driver of the vehicle insured with the appellant, instead of fixing the entire liability on the third respondent / Insurance Company, which had insured the vehicle belonging to the second respondent and whose driver was solely responsible for the cause of the accident. The appellant / Insurance Company has not challenged the quantum of compensation awarded by

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the Tribunal to the first respondent / claimant under the impugned award. They have only questioned their liability to pay compensation to the first respondent / claimant as per the impugned award. As according to them, it is only the third respondent / Insurance Company which is alone liable to pay compensation to the first respondent / claimant.

5. On the other hand, the learned counsel appearing for the third respondent / Insurance Company would submit that only based on the deposition of P.W.4 (the eye-witness), the Tribunal has rightly held that there was contributory negligence on the part of the driver of the vehicle insured with the appellant as well and has rightly fixed the contributory negligence on the driver of the vehicle insured with the appellant at 50%. He has also relied upon the very same judgment which was relied upon by the Tribunal, namely, the decision reported in ***2022 ACJ 980*** in the case of ***the Branch Manager, Reliance General Insurance Company Limited Vs. Selvi Sudarsan and Others,*** in support of his contention that the Tribunal has rightly fixed 50% contributory negligence on the part of the driver of the vehicle insured with the appellant / Insurance Company.

6. The learned counsel appearing for the first respondent / claimant would submit that the first respondent / claimant has also filed a Cross

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Objection Petition in Cros.Obj.(MD).No.15 of 2024 before this Court, seeking for enhancement of compensation. According to the learned counsel appearing for the claimant, the Tribunal has erroneously failed to award compensation to the first respondent under various other heads and therefore, this Court will have to enhance the compensation as prayed for by the claimant in Cros.Obj.(MD).No.15 of 2024. It is also submitted by the first respondent / claimant that, subsequent to the filing of this appeal, 50% of the compensation amount deposited before the Tribunal was permitted to be withdrawn by the first respondent / claimant by the Tribunal.

Discussion:

7. The following are the undisputed facts:

a. In the claim petition filed by the first respondent / claimant before the Tribunal, the appellant / Insurance Company was arrayed as a respondent only as a formal party and no claim was made against them.

b. Only during the time of cross-examination of P.W.4 (the eye witness to the accident), P.W.4 deposed that the driver of the vehicle insured with the appellant / Insurance Company was also responsible for the cause of the accident.

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c. The Tribunal, only based on the evidence of P.W.4, has come to the conclusion that the driver of the vehicle insured with the appellant was also responsible for the cause of the accident.

d. The FIR was registered only against the driver of the vehicle insured with the third respondent / Insurance Company and not against the driver of the vehicle insured with the appellant.

8. The appellant / Insurance Company has challenged the impugned award on the ground that, without there being any pleading against the driver of the vehicle insured with the appellant, the Tribunal has erroneously made the appellant / Insurance Company also liable to pay compensation.

9. From the undisputed facts referred to supra, we find that the appellant has been taken by surprise when only during the cross-examination of P.W.4 (the eye-witness), they had come to know that the first respondent / claimant is also making a claim against the appellant / Insurance Company for the injuries sustained by him as a result of the accident.

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10. The appellant did not file a counter statement before the Tribunal denying its liability to pay compensation, as the appellant was arrayed only as a formal party at the first instance in the claim petition filed by the first respondent / claimant. The claim was only made against the third respondent / Insurance Company and the owner of the vehicle insured with the third respondent.

11. To unearth the truth, the appellant / Insurance Company should have been permitted to file a comprehensive counter statement denying the negligence on the part of the driver of the vehicle insured with the appellant in the accident which resulted in the first respondent / claimant sustaining injuries. Admittedly, as seen from the evidence available on record, the appellant / Insurance Company has not been granted an opportunity to defend the claim made against it by the first respondent / claimant, as it was only during the cross-examination of P.W.4 (the eye-witness to the accident) that the appellant / Insurance Company came to know that the first respondent / claimant was also seeking compensation from them for the injuries sustained in the accident.

12. The first respondent / claimant is also seeking for enhancement of compensation before this Court as he has also filed a Cross Objection Petition in Cros.Obj.(MD).No.15 of 2024. According to the first

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respondent / claimant, the compensation awarded by the Tribunal is inadequate and the Tribunal has failed to award compensation under certain heads. The first respondent / claimant seeks for enhancement of compensation up to the tune of Rs.15,00,000/- before this Court.

13. The decision relied upon by the learned counsel for the third respondent / Insurance Company, which was also relied upon by the very same Insurance Company before the Tribunal and considered by the Tribunal, is not relevant to the facts of the instant case. The said decision did not involve a case in which the Insurance Company against whom liability was fixed had been arrayed only as a formal party in the claim petition, as in the instant case.

14. In the instant case, as seen from the claim petition filed by the first respondent / claimant, the appellant / Insurance Company was arrayed as a respondent only as a formal party. In the decision relied upon by the learned counsel appearing for the third respondent reported in ***2022 ACJ 980***, the Insurance Company concerned was not a formal party to the claim petition, whereas, in the instant case, the appellant / Insurance Company was arrayed only as a formal party by the first respondent / claimant in the claim petition. The facts, are therefore,

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different. However, the Tribunal erroneously relied upon the said decision and fixed liability on both the appellant / Insurance Company and the third respondent / Insurance Company to pay compensation to the first respondent / claimant. The matter requires further consideration. Since the contentions raised by the appellant in this appeal were not considered by the Tribunal in the impugned award and since the appellant was not granted sufficient opportunity to raise all the defences available to them under law with regard to the claim of the first respondent / claimant for payment of compensation, the matter necessarily has to be remanded back to the Tribunal for fresh consideration on merits and in accordance with law.

15. But, at the same time, the accident victim, namely, the first respondent / claimant, cannot be made to suffer on account of the dispute between the two Insurance Companies with regard to their respective liabilities to pay compensation, particularly when neither Insurance Company has challenged the quantum of compensation awarded to the first respondent / claimant as per the impugned award in this appeal. The third respondent / Insurance Company has also not filed any separate appeal challenging the impugned award passed by the Tribunal. In the crossfire between the appellant and the third respondent / Insurance Company, the first respondent / claimant should not be made to suffer.

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16. Since the issue raised by the appellant needs further consideration, we deem it fit to remand the matter back to the Tribunal for fresh consideration on merits and in accordance with law. The first respondent / claimant is permitted to file an appropriate application before the Tribunal seeking payment out of the award amount lying to the credit of the MCOP before the Tribunal and on such application being filed, the Tribunal shall order for payment out of the money lying to its credit in accordance with the directions issued earlier by the Tribunal in the impugned award, subject to the safeguards applicable to the first respondent / claimant, who is a minor. On payment of the said amount, the Tribunal shall decide the MCOP afresh with regard to liability, namely as to whether the appellant / Insurance Company is liable to pay compensation to the first respondent / claimant. If the Tribunal decides that the entire liability is on the part of the third respondent / Insurance Company, the Tribunal shall issue appropriate directions requiring the third respondent / Insurance Company to reimburse the appellant for the amount deposited by the appellant pursuant to the impugned award, to the extent warranted by such determination. In the vice-versa, if the Tribunal finds that the appellant / Insurance Company is also equally responsible to pay compensation to the first respondent / claimant, it shall determine

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the extent of such liability in accordance with law. With regard to the enhancement of compensation sought for by the first respondent / claimant before this Court through Cros.Obj.(MD).No.15 of 2024, the said issue is also left open for the Tribunal to decide and the first respondent / claimant is also permitted to let in oral and documentary evidence in support of his contention seeking for enhancement of compensation.

17. We are not expressing any opinion on the merits of the first respondent's claim before this Court seeking for enhancement of compensation as it is left open to the Tribunal to decide based on the evidence available on record before the Tribunal. The first respondent / claimant has been permitted to withdraw the compensation amount as per the directions issued under the impugned award. We deem it fit to direct the Tribunal to dispose of MCOP.No.175 of 2020 pursuant to the order of remand passed by us, within the time frame to be fixed by this Court.

18. For the foregoing reasons, in view of the fact that the appellant / Insurance Company was not granted sufficient opportunity to raise its defence with regard to its liability as fixed by the Tribunal under the impugned award, the impugned award dated 21.04.2023 made in MCOP No.175 of 2020 on the file of Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Karur, is hereby set aside and the matter is

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remanded back to the very same Tribunal for fresh consideration on merits and in accordance with law, by providing sufficient opportunity to all the parties concerned to let in oral and documentary evidence and the Tribunal is directed to dispose of MCOP.No.175 of 2020 on merits and in accordance with law within a period of six months from the date of receipt of a copy of this order. The first respondent / claimant is permitted to file an appropriate application seeking for payment out as per the directions issued by the Tribunal under the impugned award and on such application being filed, the Tribunal shall also pass appropriate orders for payment out in favour of the first respondent / claimant, subject to the applicable safeguards concerning the minor. On determination by the Tribunal as to the liability of the Insurance Company to pay compensation, the Tribunal shall also pass suitable directions in accordance with such determination, directing the Insurance Company held liable to reimburse the other Insurance Company, if any, which has paid the compensation amount in the very same order.

19. Accordingly, the impugned award in MCOP.No.175 of 2020 dated 21.04.2023 passed by the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Karur, is hereby set aside and the matter is remanded back to the very same Tribunal for fresh consideration as per the aforesaid directions.

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20. Accordingly, C.M.A.(MD).No.1236 of 2023 and Cros.Obj.(MD).No.15 of 2024 stand disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

(A.Q.,J.) (R.P.L.,J.)
27-10-2026

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Internet : Yes / No
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To

The Chief Judicial Magistrate Court, Motor Accident Claims Tribunal,
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ABDUL QUDDHOSE J.
AND
RAJNISH PATHIYIL J.
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CMA(MD) No. 1236 of 2023
AND
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