



C.M.A.No.290 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : 16.02.2026

Pronounced on : 24.04.2026

CORAM

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.M.A.No.290 of 2026 and C.M.P. No.3462 of 2026

THE UNITED INDIA INSURANCE COMPANY LIMITED,
Divisional Office, R.K.S. Complex (1st floor),
No.171-E, Neruji Road,
Villupuram-02

...Appellant

Vs.

1.Vennila
2.Venkatesan
3.V. Purushothaman

... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act,1988, against the Award dated 20.01.2023 made in M.C.O.P No.58 of 2019 on the file of the Motor Accident Claims Tribunal, Special District Court, Villupuram.

For Appellant : Ms. R. Rathna Thara

For Respondents : Ms. R. Poornima for R1 and R2



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JUDGMENT

This Appeal is directed against the Award dated 20.01.2023 made in M.A.C.T.O.P No.58 of 2019 on the file of the Motor Accident Claims Tribunal, Special District Court, Villupuram.

2. For the sake of convenience the parties are referred to as per their ranking in the Tribunal.

3. Shortly stated, on 08.02.2018, at about 08.40 hours, when the deceased Kandan @ Kandasamy was proceeding in his two wheeler bearing Registration No. TN-03-4623 along with one Iyyanar and Gajendran as pillion riders, at Ulunthurpet-Villupuram main Road, near Mambakkam Cross Road, a Eicher lorry bearing Registration No.TN-12-D-3593, driven by its driver in a rash and negligent manner, came in the opposite direction and dashed against the two wheeler of the deceased, as a result of which, the said Kandan @ Kandasamy sustained grievous injuries and was taken to Villupuram Medical College Hospital. In spite of intensive treatment, he died on the same day.



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4. The claimants, the parents of the deceased, filed a claim petition before the Claims Tribunal seeking compensation of Rs,20,00,000/- for the death of their son.

5. The claim was opposed by the appellant / Insurance Company by stating that the deceased was riding the motorcycle along with two pillion riders without a valid driving license. Hence, the Insurance Company is not liable to pay any compensation to the claimants.

6. The learned Tribunal, after trying the issues, vide its order dated 20.01.2023 partly allowed the claim and awarded a sum of Rs.16,27,000/- to the claimants and directed the 2nd respondent / Insurance Company to pay the said compensation together with 7.5% interest from the date of claim petition till the date of realisation.

7. Aggrieved by this, the Insurance Company is on appeal. According to the learned counsel for the appellant / Insurance Company, the Tribunal ought to have fixed at least 50% contributory negligence on the part of the deceased who had rode the motorcycle without driving license and with two pillion



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riders, which is a blatant and willful breach and violation of the Motor Vehicles Act. The Tribunal, though has fixed the liability at 80% on the 3rd respondent / Insured, erroneously ordered the Insurance Company to pay the entire compensation to the claimants. Hence, prayed for setting aside the Award passed by the Tribunal in the above MACTOP.

8. On the other hand, Ms. R. Poornima, the learned counsel appearing the respondents1 and 2 / petitioners would submit that, the Tribunal, after analysing the oral and documentary evidence, has rightly awarded just compensation to the petitioners, warrants any interference by this Court.

9. Heard on both sides. Records perused.

10. It is contended by the learned counsel for the appellant that though the tribunal has observed that the accident has occurred due to 80% negligence on the part of the driver of the Eicher lorry, while awarding compensation, failed to deduct 20% from the total compensation amount. However, on a perusal of the order passed by the Tribunal it is seen that, the tribunal has categorically held that there is no evidence on the side of the respondents to



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prove that the accident has occurred due to the negligence on the part of the rider of the two wheeler; that P.W.2, an eye witness to the accident, has clearly deposed about the manner of accident and that the deceased had worn helmet at the time of accident. That apart, even assuming that three persons travelled in the two wheeler, it is not a ground to fix the contributory negligence. Without there being any evidence on records to show that the accident has taken place due to the negligent driving of the rider of the two wheeler and due to three persons travelling in the two wheeler, contributory negligence cannot be fixed on the rider of the two wheeler. Further, non-possession of driving licence *per se* is also not a ground to fix contributory negligence on the side of deceased, when there is no positive evidence on record to suggest his negligence. As far as the failure to produce the valid driving licence is concerned, the same cannot be a ground for fixing contributory negligence on the part of vehicle belonged to claimant. The Apex Court in ***Sudhir Kumar Rana vs. Surinder Singh and others*** reported in CDJ 2008 SC 862 = (2008) 12 SCC 436, while considering non-possession of driving license observed as follows:-

“8. If a person drives a vehicle without a licence, he commits an offence. The same, by itself, in our opinion, may not lead to a



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finding of negligence as regards the accident. It has been held by the courts below that it was the driver of the mini- truck which was being driven rashly and negligently. It is one thing to say that the appellant was not possessing any licence but no finding of fact has been arrived at that he was driving the two-wheeler rashly and negligently. If he was not driving rashly and negligently which contributed to the accident, we fail to see as to how, only because he was not having a licence, he would be held to be guilty of contributory negligence.”

11. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

24.04.2026

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Internet:Yes/No

Index:Yes/No

Speaking/Non-speaking order

To

1. The Special District Judge, Motor Accident Claims Tribunal, Villupuram.
2. The Section Officer, VR Section, High Court, Madras.

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K.GOVINDARAJAN THILAKAVADI, J.

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Pre-delivery judgment in
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