

C.M.A.No.23 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 25.02.2026

CORAM

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI,J.

C.M.A.No. 23 of 2026

1. Kathirvel

2. Karthickvel

...Appellants

Vs.

1. M/s. Arulmigu Sri Perumal Samy Tyres,

No.455-2, Cuddalore Main Road,

Periyakurichi, Neyveli 607 802.

2. The Divisional Manager,

United India Insurance Company Limited,

No.13A, Nethaji Road,Cuddalore 607 001.

...Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree in M.C.O.P.No.187 of 2021 dated 20.08.2025 on the file of the Motor Accident Claims Tribunal / Special District Court II, Cuddalore.

For Appellants

: Ms. Ramya V. Rao

For Respondents

: Mr. S. Arun Kumar for R2

R1 – served – No appearance.



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JUDGMENT

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This appeal, under Section 173 of Motor Vehicles Act, has been filed by the appellants/claimants questioning the negligence and quantum of compensation awarded in M.C.O.P. No.187 of 2021 on the file of the Motor Accident Claims Tribunal / Special District Court II, Cuddalore.

2. The learned counsel for the appellant would submit that, the Tribunal has erroneously fixed 10% contributory negligence on the part of the deceased for not wearing helmet at the time of accident is unsustainable. Her further contention is that, the Tribunal ought to have fixed the monthly income of the deceased as Rs.94,175/- instead of Rs.90,675/-, without deducting House Rent Allowance and Medical Allowance, warrants interference by this Court.

3. On the other hand, the learned counsel for the 2nd Respondent would submit that, the Tribunal, after analysing the materials on record, had rightly fixed 10% contributory negligence on the part of the deceased and awarded just compensation, warrants any interference. Hence, prayed for dismissal of the Civil Miscellaneous Appeal.



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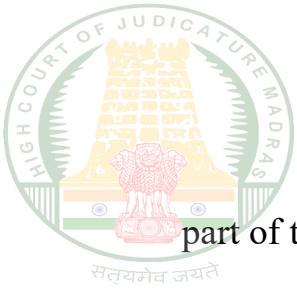
4. Heard on both sides. Records perused.

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5. It is seen from the order of the Tribunal that the deceased had sustained grievous head injury and she was not wearing helmet at the time of accident. The Insurance Company claims that, since the deceased had travelled without helmet, she had sustained head injury and succumbed to death, therefore, the deceased has also contributed to the negligence. This Court in C.M.A.(MD) No.987 and 988 of 2014, dated 13.02.2017, the Branch Manager (Oriental Insurance Company Limited) vs. Indirani and others, has held as follows:

“11. Without wearing a helmet, no rider can ride the two wheeler and as per Section 129 of the Motor Vehicles Act, 1988, it is mandatory.”

This Court is consistently following the above principles that, if a person travelled in a two wheeler without wearing helmet and sustained injury, it shall be accepted that he had also negligently contributed to the accident. The learned Tribunal, applying the principles laid down by this Court in catena of decisions, has rightly held that, non wearing of helmet, at the time of accident amounts to contributory negligence, fixed 10% contributory negligence on the



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part of the deceased, warrants any interference by this Court.

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6. Further, the Tribunal has rightly fixed the income of the deceased as Rs.90,675/-, which is in accordance with law.

7. In view of the above discussions, this Civil Miscellaneous Appeal is dismissed. No costs. The Award passed in M.C.O.P. No.187 of 2021 on the file of the Motor Accident Claims Tribunal / Special District Court II, Cuddalore, is upheld.

25.02.2026

bga

Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order

To

The Special District Judge II,

Motor Accident Claims Tribunal, Cuddalore

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