

C.M.A(MD)No.160 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.02.2026

CORAM:

THE HONOURABLE MR JUSTICE G.K. ILANTHIRAIYAN

AND

THE HONOURABLE MS.JUSTICE R. POORNIMA

C.M.A(MD)No.160 of 2024
and C.M.P(MD)Nos.1947 of 2024 and 9349 of 2024
and C.M.P.(MD).No.11308 of 2024 C.M.P.(MD).No.SR58041 of 2024
in C.M.A.(MD).No.SR58040 of 2024 and C.M.A.(MD).No.SR58040
of 2024

Cause Title in C.M.A.(MD).No.160 of 2024

United India Insurance Company Limited,
Through its Divisional Manager,
No.1, Post Office Road,
Palayamkottai.

... Appellant/2nd Respondent

-VS-

1.Senthil Murugan

2.Valli

3.Sudalai

... Respondents 1 & 2/Petitioners 1 & 2

... 3rd Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, to set aside the award dated 21.11.2023 made in M.C.O.P.No.1190 of 2019, on the file of the Motor Accident Claims



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Tribunal, Special Sub Court dealing with MCOP Cases, Tirunelveli.

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For Appellant : Mr.I.Suthakaran

For R1 & R2 : Mr.T.Selvakumaran

For R3 : No Appearance

Cause Title in C.M.P.(MD).No.9349 of 2024

1.Senthil Murugan

2.Valli ... Petitioners/Respondents 1 & 2

Vs.

1.United India Insurance Company Limited,

Through its Divisional Manager,

No.1, Post Office Road,

Palayamkottai.

... 1st Respondent/Appellant

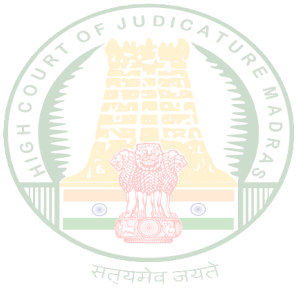
2.Sudalai

... 2nd Respondent/3rd Respondent

PRAYER: Civil Miscellaneous Petition is filed under Section 151 of C.P.C. to permit the petitioners to withdraw 50% of the entire award amount along with the accrued interest to credit M.C.O.P.No.1190 of 2019 on the file of the Motor Accident Claims Tribunal, Special Sub Court dealing with MCOP Cases, Tirunelveli.

For Petitioners : Mr.T.Selvakumaran

For R1 : Mr.I.Suthakaran



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For R2

: No Appearance

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Cause Title in C.M.A.(MD).No.SR58040 of 2024
and C.M.P.(MD).No.11308 of 2024

1.Senthil Murugan

2.Valli

... Appellants/Petitioners

Vs.

1.Sudalai

2.United India Insurance Company Limited,

Through its Divisional Manager,

No.1, Post Office Road,

Palayamkottai.

... Respondents/Respondents

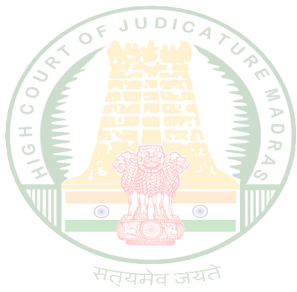
PRAYER in C.M.A.(MD).No.SR58040 of 2024: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 to enhance the award amount in M.C.O.P.No.1190 of 2019 on the file of the Motor Accident Claims Tribunal, Special Sub Court dealing with MCOP Cases, Tirunelveli, dated 21.11.2023.

PRAYER in C.M.P.(MD).No.11308 of 2024: Civil Miscellaneous Petition is filed under Section 24(3) of T.N.M.V. Rules, to grant an order of exemption from paying the court fee of Rs.5,642/- in C.M.A. (MD).No.58040 of 2024.

For Petitioners

: Mr.T.Selvakumaran

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For R1 : Mr.I.Suthakaran

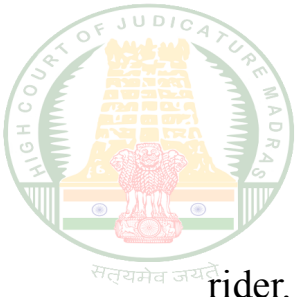
For R2 : No Appearance

JUDGMENT

**(Judgment of the Court was delivered by
G.K.ILANTHIRAIYAN, J.)**

This appeal is directed as against the award passed in M.C.O.P.No.1190 of 2019 dated 21.11.2023 on the file of the Motor Accident Claims Tribunal, Special Sub Court dealing with MCOP Cases, Tirunelveli, thereby, partly allowed the claim petition and awarded compensation to the tune of Rs.18,91,400/- payable by the appellant herein.

2.Respondents 1 and 2 filed a claim petition alleging that they are the legal heirs of the deceased, who was travelling on an unregistered motorcycle on 13.05.2019 on the Tirunelveli to Tiruchendur main road, just east of the Srivaikundam Pudukudi bus stop, towards the west on the southern side of the road as a pillion



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rider. At that time a Mahindra Tourist Van bearing Registration No. TN 75 B 5854, which belonged to the third respondent herein and was insured with the appellant, came from the opposite side at a high speed in a rash and negligent manner and dashed against the two-wheeler. As a result, the entire motorcycle was burned, and the pillion rider of the two-wheeler was thrown from the motorcycle. Therefore, the rider of the motorcycle as well as the pillion rider of the motorcycle died on the spot.

3.In order to prove the claim, the claimants had examined PW1 and PW2 and marked Exs. P1 to P13. On the side of the appellant, they had examined RW1 to RW4 and marked Ex. R1. Court documents were marked as Exs.X1 to X4.

4.On perusal of oral and documentary evidence, the tribunal concluded that the third respondent's vehicle's driver was solely responsible for the cause of the accident and the accident



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occurred only due to the rash and negligent driving of the third respondent's driver. Hence, the tribunal fixed the entire liability on the appellant and awarded compensation to the tune of Rs. 18,91,400/-. Aggrieved by the same, the appellant, who is the insurer of the third respondent's vehicle, preferred this appeal.

5.The learned counsel for the appellant submits that immediately after the accident, the driver of the third respondent's vehicle lodged a complaint, and the same was registered in Crime No. 82 of 2019 for the offence punishable under Sections 279, 338 and 304(A) IPC against the rider of the motorcycle on the file of the Inspector of Police, Srivaikundam Police Station, Thoothukudi District. After completion of the investigation, the Inspector of Police, Srivaikundam Police Station, filed the final report and dropped further action, since the entire charge was against the deceased, that is, the rider of the motorcycle. In fact, the appellant had examined the driver of the third respondent's vehicle as RW2.

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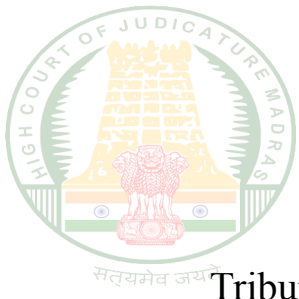


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Though he categorically deposed that only due to the rash and negligent driving of the two wheeler the accident had occurred, even then, the tribunal concluded that the accident had occurred solely due to the negligence on the part of RW2. He further relied upon the rough sketch, which was marked as Ex. X2, which reveals that when the third respondent's vehicle was driven by its driver on its left-hand side, from the opposite side, the deceased was riding his motorcycle on the right-hand side, which is the wrong side of the road, and dashed against the third respondent's tourist van. Therefore, the two-wheeler immediately caught fire and completely burned. Due to the injuries, both the rider of the two-wheeler and the pillion rider of the two-wheeler died on the spot. Therefore, the tribunal ought not to have foisted any liability on the insurer of the third respondent, namely, the appellant herein.

6.Per contra, the learned counsel for the claimant submitted that one of the eyewitnesses was examined before the



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Tribunal as PW2. He categorically deposed that when he was riding his motorcycle just behind the deceased's motorcycle, from the opposite side, the third respondent's van was driven by its driver in a rash and negligent manner and dashed against the two-wheeler. Therefore, the accident occurred only due to the negligence on the part of the driver, and the tribunal rightly concluded that the accident occurred only due to the negligence on the part of the third respondent's driver. He further submitted that the claimants have also filed a petition for enhancement of compensation along with the application to exempt the Court fee in C.M.P.(MD).No.10308 of 2024 and it is pending at SR Stage in C.M.A.(MD).No.SR58040 of 2024.

7.Heard the learned counsel for the appellant and the respondents 1 and 2 and perused the records.

8.The only point that arises for consideration in this appeal



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is: Had the accident occurred only due to the negligence of the van driver?

9.Perusal of FIR and the charge sheet, which were marked as Exs.X1 and X3, reveals that when the third respondent's van was driven by its driver, namely RW2, on the Tirunelveli to Tiruchendur Road just east of Srivaikundam Pudukudi Bus Stop, towards the west on the southern side of the road on 13.05.2019 at about 10.45 a.m., from the opposite side the deceased was riding an unregistered motorcycle in a rash and negligent manner and dashed against the third respondent's van. Therefore, the entire two-wheeler caught fire and burned on the spot itself. The rider of the motorcycle and the pillion rider of the motorcycle sustained grievous injuries and died on the spot. Therefore, the Inspector of Police, Srivaikundam Police Station, filed a final report as against the rider of the motorcycle and dropped further action, since the rider of the motorcycle died on the spot, in Crime No.82 of 2019 dated 23.11.2019. It was duly

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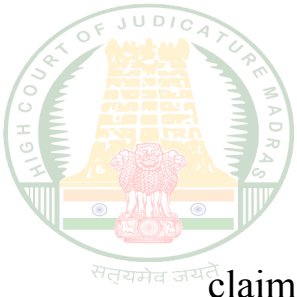
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accepted by the learned jurisdictional magistrate, since there is no evidence to show that the claimants are the legal heirs of the deceased rider of the motorcycle who failed to file any protest petition challenging the report of further action dropped in Crime No.82 of 2019.

10.Further, the rough sketch, which was drawn from the scene of the crime and marked as Ex.X2, clearly shows that the accident took place on the Tirunelveli to Tiruchendur Road just east of the Srivaikundam Pudukudi bus stop on the northern side of the road. It clearly shows that the third respondent's van was driven by its driver on his left side, which is the northern side of the road. The rider of the motorcycle was riding the two-wheeler on his right-hand side, which is the northern side of the road, on the wrong side, and dashed against the vehicle of the third respondent.

11.Further, PW2 was examined only for the purpose of the



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claim petition, since he was not even examined by the police and he did not even lodge any complaint immediately after the accident. In fact, PW2 or the claimants and the legal heirs of the deceased, did not even challenge the final report in the manner known to law. PW2 did not even whisper about the complaint, which shows that PW2 is nothing but a cooked up witness by the claimants in order to prove their claim. Unfortunately, without considering the above factual aspects, the tribunal concluded and foisted the entire negligence on the part of the third respondent's driver and allowed the claim petition.

12.In view of the above, the award passed by the tribunal in M.C.O.P.No.1190 of 2019 cannot be sustained and is liable to be set aside.

13.Accordingly, this civil miscellaneous appeal is allowed. No costs. The award passed in the M.C.O.P.1190 of 2019 dated

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21.11.2023 on the file of the Motor Accident Claims Tribunal, Special Sub Court dealing with MCOP Cases, Tirunelveli, is dismissed. Further, the claimants/respondents 1 and 2 are at liberty to sue as against the legal heirs of the rider, who is the owner of the unregistered two-wheeler. Consequently, connected miscellaneous petition C.M.P.(MD).No.1947 of 2024 is closed.

14.Further, in pursuance of the dismissal of the M.C.O.P.No. 1190 of 2019 on the file of the Motor Accident Claims Tribunal (Special Sub Court), Tirunelveli, (i) the petition filed by the claimants/respondents 1 and 2 in C.M.P.(MD).No.9349 of 2024 in C.M.A.(MD).No.160 of 2024, seeking permission of this Court to withdraw 50% of the award amount, is dismissed; (ii) the petition filed by the claimants in C.M.P.(MD).No.11308 of 2024 in C.M.A.(MD).No.SR58040 of 2024 seeking exemption of the Court fee in filing the above said Civil Miscellaneous Appeal is also dismissed; and (iii) the C.M.A.(MD).No.SR58040 of 2024 filed by the claimants seeking



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enhancement of the award amount is also rejected at the SR stage itself.

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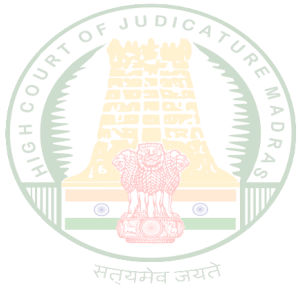
Consequently, connected C.M.P.(MD).No.SR58041 of 2024 filed in
C.M.A.(MD).No.SR58040 of 2024 is closed.

[G.K.I.J.,] & [R.P.J.,]
06.02.2026

NCC :Yes/No
Index :Yes/No
TM

To

- 1.The Motor Accident Claims Tribunal,
Special Sub Court dealing with MCOP Cases, Tirunelveli
- 2.The Record Keeper (Vernacular Records),
Madurai Bench of Madras High Court,
Madurai.



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AND
R. POORNIMA, J.

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