

C.M.A.Nos.3647 & 3675 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on	10.02.2026
Pronounced on:	29.04.2026

CORAM

THE HONOURABLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI

C.M.A.Nos.3647 & 3675 of 2025

and C.M.P.Nos.30606 & 3647 of 2025

The Superintending Engineer,

Cuddalore EDC, Tanjed Co Ltd.,

Cuddalore-607 001

...Appellant in both C.M.As

-Vs-

1. G. Duraisamy

...1st Respondent in

C.M.A.No.3647 of 2025

1. K. Balu

...1st Respondent in

C.M.A.No.3675 of 2025



C.M.A.Nos.3647 & 3675 of 2025

2. The Branch Manager,

The National Insurance Company Limited,

No.165, Nethaji Road,

Manjakuppam, Cuddalore-1.

...Respondent in both C.M.As

Common Prayer: These Civil Miscellaneous Appeals are filed under Section 173 of the Motor Vehicles Act, 1988, against the common award passed in M.C.O.P.Nos.3020 & 3021 of 2018 dated 24.04.2025 on the file of the Motor Accident Claims Tribunal and Special District Court-1, Cuddalore.

For Appellant in both C.M.As : M/s. J. Hemalatha Gajapathy

For Respondents in both C.M.As : R1 – Served, No Appearance

Mr. M. Krishnamoorthy for R2

COMMON JUDGMENT

These Civil Miscellaneous Appeals are preferred against the orders passed in M.C.O.P.Nos.3020 & 3021 of 2018 dated 24.04.2025 on the file of the Motor Accident Claims Tribunal and Special District Court-1, Cuddalore.

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

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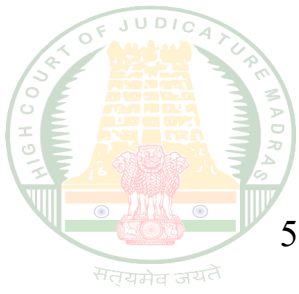


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3. Shortly stated, on 19.01.2018 at about 7.00 p.m., one Duraisamy was riding a two-wheeler bearing Registration No.TN 31 BE 7006, with one Balu travelling as a pillion rider, from S.N. Nagar, following all traffic rules. While they were proceeding near S.N. Nagar, a Jeep bearing Registration No.TN 31 BF 5203 belonging to the appellant and insured with the 2nd respondent/Insurance Company was driven in a rash and negligent manner, without sounding any horn and without following the traffic rules and regulations, and hit the two-wheeler from behind, thereby causing the accident. Due to the said accident, both the petitioners sustained grievous injuries and multiple fractures on various parts of their body and head. They were initially admitted to the Government Hospital, Cuddalore, and thereafter shifted to Lakshmi Hospital, Cuddalore for advanced treatment.

4. The claimants filed the above M.C.O.P.Nos.3020 & 3021 of 2018, each claiming a compensation of Rs.10,00,000/- for the injuries sustained by them in the said accident.



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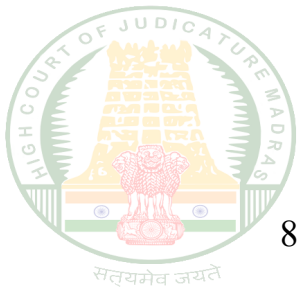
5. The 2nd respondent/Insurance Company resisted the said petitions by

stating that the accident occurred due to the rash and negligent riding of the claimants, that the driver of the appellant's vehicle did not possess a valid driving license, and therefore, the Insurance Company is not liable to pay any compensation to the claimants and prayed for dismissal of the claim petitions.

6. The Claims Tribunal framed the necessary issues and came to the conclusion that the accident took place due to the rash and negligent driving of the driver of the appellant's vehicle and that the claimants are entitled to claim compensation. After analyzing the oral and documentary evidence on record, the Tribunal awarded a compensation of Rs.3,00,000/- in M.C.O.P.No.3020 of 2018 and Rs.4,14,000/- in M.C.O.P.No.3021 of 2018 to the claimants and directed the 2nd respondent/Insurance Company to pay the said award amounts, together with interest at the rate of 7.5% per annum from the date of filing of the claim petitions till the date of realisation. Further, the Tribunal directed the 2nd respondent/Insurance Company to recover the compensation amounts from the appellant herein.

7. Challenging the liability fastened upon it, the present Civil Miscellaneous Appeals are filed by the appellant.

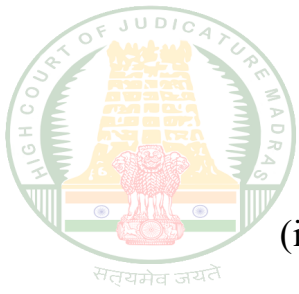
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8. The learned counsel for the appellant would submit that the Tribunal erroneously directed the 2nd respondent/Insurance Company to recover the compensation amount from the appellant, despite the appellant's vehicle being duly insured under a valid policy at the time of the accident. She further contended that the Tribunal erred in relying upon Ex.P3, which pertains to a different vehicle (Moped/Jupiter) and not to the appellant's vehicle bearing Registration No.TN 31 BF 5203, and that the driver of the appellant's vehicle possessed a valid driving license under D.L.No.TN 32 20050000605, valid up to 14.03.2020 for transport vehicle and up to 14.03.2025 for non-transport vehicle. The learned counsel further submitted that the Tribunal failed to note that the claimants themselves did not possess valid driving licenses and were driving the vehicle in violation of traffic rules, and that the contributory negligence of the victims ought to have been taken into consideration. It was also contended that the Tribunal arbitrarily fixed the notional income of the claimants at Rs.12,000/- per month without any supporting documents, making the compensation excessive and unsupported by evidence. To support her contentions, the learned counsel relied upon the judgments in:

- (i) *ICICI Lombard Insurance Co. Ltd., v. Rajani Sahoo and others* reported in *SLP(C) No.29302 of 2019*;



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(ii) *C.M.A.No.739 of 2021.*

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9. Despite service of notice, there is no representation on the side of the 1st respondent in both appeals.

10. The learned counsel for the 2nd respondent/Insurance Company contended that the rule of evidence to prove charges in a criminal trial cannot be employed while deciding an application under Section 166 of the Motor Vehicles Act, 1988, and that there is no reason to doubt the veracity of the statement of the claimants who sustained injuries in the accident. Therefore, the petition has to be decided on the basis of evidence adduced before the Tribunal and not on the basis of standards applicable to a criminal trial. Further, it was submitted that the appellant failed to establish that the alleged accident occurred due to the negligence of the injured claimants. Since the driver of the appellant's vehicle did not possess a valid driving licence, the learned Tribunal rightly ordered for pay and recovery and the same cannot be interfered with.

11. Heard the learned counsel on both sides and records perused.



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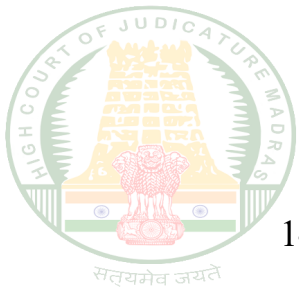
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12. The pivotal questions that arise for consideration in these appeals are:

(i) whether the Tribunal was justified in directing the 2nd respondent/Insurance Company to recover the compensation amount from the appellant despite the existence of a valid insurance policy; and

(ii) whether the Tribunal's findings on the driving license and the quantum of compensation warrant interference.

13. On perusal of the records, it is seen that the accident occurred on 19.01.2018 involving the appellant's vehicle bearing Registration No.TN 31 BF 5203 – a Jeep – and the two-wheeler bearing Registration No.TN 31 BE 7006, on which the claimants were travelling. The Tribunal, after considering the oral and documentary evidence available on record, came to the definite conclusion that the accident was caused by the rash and negligent driving of the driver of the appellant's vehicle, and this finding has not been seriously challenged or demonstrated to be perverse.



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14. The appellant's principal contention is that the driver of the appellant's vehicle possessed a valid driving license under D.L.No.TN 32 20050000605 and that the Tribunal erroneously concluded otherwise by misreading Ex.P3. A careful perusal of the records reveals that Ex.P3 pertains to a different vehicle, namely, the Moped/Jupiter involved in the accident as the victim's vehicle, and does not relate to the appellant's vehicle bearing Registration No.TN 31 BF 5203. The Tribunal appears to have proceeded on the basis of Ex.P3 without advertent to the counter and insurance particulars filed by the appellant, which clearly establish that the said exhibit pertains to the victim's vehicle and not to the appellant's vehicle. To this extent, the Tribunal's finding that the license was not produced suffers from a misreading of the material on record.

15. However, the question of pay and recovery is not solely dependent upon the driving license issue. The Tribunal has found that the appellant's vehicle was the offending vehicle and that the accident occurred due to the negligence of the driver of the said vehicle. The 2nd respondent/Insurance Company having indemnified the claimants is entitled to recover the amount from the insured/appellant if any breach of the terms and conditions of the

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policy is established. Insofar as the contention regarding valid insurance is

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concerned, merely because the vehicle was covered under a valid policy does not automatically disentitle the insurer from exercising the right of recovery under Section 149 of the Motor Vehicles Act, 1988, if there exist valid grounds for the same, such as the absence of a valid driving license at the time of the accident. Since the question of the driving license remains a factual dispute that goes to the root of the matter, and since the Tribunal's finding thereon is based on a misreading of Ex.P3, this Court finds it appropriate to set aside the direction for recovery against the appellant pending a proper consideration of the material on record.

16. Insofar as the contention regarding contributory negligence of the claimants is concerned, on a perusal of the evidence on record, there is no concrete material to establish that the claimants were riding without a valid driving license or in violation of traffic rules in a manner that contributed to the accident. The FIR and the charge sheet stand registered against the driver of the appellant's vehicle. As held by the Hon'ble Supreme Court, the standard of proof in motor accident claim petitions is one of preponderance of probabilities and not proof beyond reasonable doubt. In the absence of any

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specific evidence to substantiate contributory negligence on the part of the claimants, the contention of the appellant in this regard is liable to be rejected.

17. Insofar as the fixation of notional income at Rs.12,000/- per month is concerned, the Tribunal has fixed the said amount without the claimants having produced any income certificate or documentary proof to substantiate their income. However, the fixation of notional income is an exercise that falls within the discretion of the Tribunal in cases where documentary proof is unavailable. In the present case, the claimants are injured persons and the Tribunal has applied a notional income based on the minimum wage applicable at the relevant period. Having regard to the nature of the injuries sustained and the age of the claimants, this Court does not find any compelling reason to interfere with the notional income fixed by the Tribunal.

18. Insofar as the quantum of compensation is concerned, the Tribunal has awarded Rs.3,00,000/- in M.C.O.P.No.3020 of 2018 and Rs.4,14,000/- in M.C.O.P.No.3021 of 2018. On perusal of the heads under which the compensation has been awarded, this Court finds that the amounts awarded are reasonable and in consonance with the facts and circumstances of the case, and do not warrant any interference.

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19. In view of the foregoing discussions, this Court is of the considered opinion that the appeals are liable to be dismissed, save and except the direction for recovery against the appellant insofar as it is premised on the misreading of Ex.P3 relating to the driving license. The Tribunal shall, if the 2nd respondent/Insurance Company seeks to enforce its right of recovery, consider the same afresh in accordance with law and in light of the observations made herein.

20. In the result, these civil miscellaneous appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

29.04.2026

vsn

Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order

To

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

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K.GOVINDARAJAN THILAKAVADI, J.

vsn

Pre-delivery Judgment made in
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and **C.M.P.Nos.30606 & 3647 of 2025**

29.04.2026