

The Branch Manager vs Anusuya

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Court : Chennai

Decided On : Jul-31-2025

Judge : Honourable Mr Justice R. Suresh Kumar, Honourable Mr. Justice P. Dhanabal

Appeal No. : CMA/2059/2025

Appellant : The Branch Manager

Respondent : Anusuya

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 31.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR AND THE HONOURABLE MR.JUSTICE P.DHANABAL and C.M.P.No.18083 of 2025 The Branch Manager, The Reliance General Ins. Co., Ltd., PLA Kanagu Towers, 2nd Floor, 11th Cross, 15A, Thillai Nagar Main Road, Trichy - 620 018, Trichy City Civil Court Munsifi, Tiruchirappalli District. ... Appellant / 2nd Respondent. vs.

1. Anusuya W/o. Late Siva
2. Minor S. Vidyalakshmi D/o.Late Siva
3. Minor S. Vasanthi D/o. Late Siva [2nd and 3rd respondents by Mother and natural Guardian Anusuya]
4. T. Kayaroganam S/o. Thangavel
5. K. Selvarani W/o. Kayaroganam
6. S. Kalaivanan S/o. Sundharesan
7. Senthamizhselvan S/o. Kalaivanan .. Respondents PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor

Vehicles Act, 1988 against the decree and judgment dated 14.10.2022 passed in M.C.O.P. No.118 of 2020 on the file of the Motor Accident Claims Tribunal / Principal District & Sessions Court, Tiruvarur. For Appellant : Mr. C. Bhuvanasundari

JUDGMENT

(Judgment of the Court was made by P.DHANABAL,J.)

This Civil Miscellaneous appeal has been preferred as against the fair and decretal order passed by the Motor Accident Claims Tribunal / Principal District and Sessions Court, Thiruvavur in M.C.O.P. No.118 of 2020 dated 14.10.2024, wherein the respondents 1 to 5 herein, have filed a petition for compensation to the tune of Rs.50 lakhs for the death of one Siva, who died in a road accident and the Tribunal allowed the petition in part and awarded a sum of Rs.25,13,536/- with interest @ 7.5% per annum from the date of petition till the date of deposit. Aggrieved by the said order, the insurance company has filed this appeal.

2. Before the Tribunal, the respondents 1 to 5 have filed a petition

claiming compensation of Rs.50 lakhs for the death of one Siva, who is the husband of the 1st respondent, father of 2 and 3 respondents and son of 4 and 5 respondents. According to the Claimants, on 29.09.2019 at 8.00

p.m., the 7th respondent herein, for his relative's house construction work, took some people in a four wheeler Mahindra TUV-300 vehicle bearing Registration No.TN50 AD 1337. At that time, when the car was nearing Melapanankattangudi, the 3rd respondent drove the vehicle in a rash and negligent manner and dashed against a tree. Due to which, the passenger Siva sustained injuries and died on the spot. Immediately, he was taken to a Government Hospital, Tiruvarur, where he reported dead. At the time of the accident, the deceased was aged about 38 years and he was doing electrician work and owner of Kalainilavu Constructions, Thiruneiper, thereby he earned around Rs.20,000/- per month. The accident took place due to the negligence on the part of the driver of the vehicle. The vehicle involved in the accident was insured with the appellant insurance company. Therefore, the respondents 1 to 5 claimed Rs.50,00,000/- towards compensation.

3. The appellant / 2nd respondent filed a counter before the Tribunal

stating that the nature and manner of accident are denied. The driver of the vehicle belonging to the 7th respondent / 1st respondent had taken due care and caution while driving the vehicle and the accident was not occurred due to the negligence on the part of the driver of the vehicle. The driver of the vehicle had no valid license to drive the vehicle. Therefore, the insurance company is not liable to pay any compensation. The quantum of compensation claimed by the respondents / claimants is highly excessive. Therefore, the claim petition is liable to be dismissed.

4. Based on the above pleadings, the Tribunal has framed the

following points for determination: 4.1. Whether the accident had happened due to the rash and negligent driving of 3rd respondent being driver of the 1st respondent's vehicle bearing Registration No.TN50 AC 2523. 4.2. Whether the petitioners are entitled for the compensation. 4.3. Whether the respondents are liable to pay the compensaton. 4.4. To what relief the petitioners are entitled to.

5. Before the Tribunal, on the side of the claimants / respondents 1

to 5 herein, PW1 and PW2 were examined and Ex.P.1 to Ex.P.9 were marked. On behalf of the appellant / 2nd respondent, no oral or documentary evidences were adduced. After evaluating the available oral and documentary evidences, the Tribunal has awarded a sum of Rs.25,13,536/- . Aggrieved by the said Award, the Insurance Company / 2nd respondent in the Claim Petition has preferred this Civil Miscellaneous Appeal on the ground of 'negligence' and 'quantum'.

6. The learned counsel appearing for the appellant would submit that

the claimants before the Tribunal have filed a petition for compensation due to the accident occurred on 29.09.2019 alleging that the accident took place due to the negligence on the part of the driver of the vehicle. The accident was not occurred due to the negligence on the part of driver of the vehicle, in fact, it was beyond his control. Therefore, the appellant / 2nd respondent is noway liable to pay compensation. Without considering the same, the Tribunal fastened the negligence on the part of the driver of the offending vehicle. Moreover, there are no records produced by the claimants to prove the income of the deceased. However, the Tribunal had taken a sum of Rs.14,562/- as notional income without any basis. Therefore, the Award passed by the Tribunal is on higher side. Therefore, the Award passed by the Tribunal is liable to be set aside.

7. This Court heard the appellant's side and perused the entire materials available on record.

8. Upon hearing the appellant's side and perusing the entire

materials, the point for determination in this appeal is "whether finding of the Tribunal fixing the negligence on the part of the driver of the vehicle which involved in the accident and the amount fixed by the Tribunal are sustainable.

9. In this case, there is no dispute that the vehicle bearing

Registration No.TN50 AD 1337 involved in the accident and the same was insured with the appellant / 2nd respondent Insurance Company. Further, there is no dispute that the deceased died due to the accident. According to the claimants / respondents 1 to 5 herein, the accident took place due to the negligence on the part of the driver of the vehicle, in which, the deceased travelled. In order to prove the same, they examined PW2, who is the eye witness to the occurrence. He categorically deposed about the negligence on the part of the driver of the vehicle. Further, FIR has been registered as against the driver of the vehicle. Therefore, the claimants proved that the accident took place due to the negligence on the part of the driver of the vehicle. In order to rebut the above said evidence, no contra evidence was

adduced on the side of the appellant / 2nd respondent before the Tribunal. Therefore, the Tribunal after analysing the evidences and records, fairly came to a conclusion that the accident took place due to the negligence on the part of the driver of the four wheeler. The above said findings of the Tribunal is based on the evidence.

10. According to the Claimants, the deceased was earning around

Rs.20,000/- month. But no records have been produced to prove the said income. However, the Tribunal had taken a sum of Rs.14,562/- by relying upon the judgment of this Court in Andal and ors vs. Avinav Kannan and others in C.M.A. No.2330 of 2017. The Tribunal based on the cost of inflation index, fixed the monthly income as Rs.14,562/- and considering

the age of the deceased, added 25% for future prospects, deducted 1/4th of the said income towards personal expenses and correctly adopted the multiplier as 14 and awarded a just and fair compensation. As far as the other heads are concerned, the Tribunal awarded 'consortium' as Rs.40,000/-, 'Funeral expenses' as Rs.15,000/-. However, failed to award 'loss of estate', instead of awarded Rs.5,000/- for 'transportation charges'. The claimants have not preferred any appeal as against the award passed by the Tribunal, whereas the insurance company preferred this appeal on the ground of 'negligence' and challenged the quantum. Since the Tribunal has

passed a reasoned order and the same is just and proper, there is no warrant to interfere with the order of the Tribunal. Thus, the point is answered.

11. In view of the above discussions, this Court is of the view that the award passed by the Tribunal is in order in all respects, the Civil Miscellaneous Appeal has no merits and deserves to be dismissed.

12. Accordingly, this Civil Miscellaneous Appeal is dismissed, even without issuing notice to the respondents at the stage of admission itself. No costs. The connected miscellaneous petition is closed.

(R.S.K.J.) & (P.D.B.J) 31.07.2025 mjs Internet : Yes Index:Yes/No Neutral Citation:Yes/No To The Motor Accident Claims Tribunal Judge / Principal District & Sessions Judge, Tiruvarur. R. SURESH KUMAR,J and P.DHANABAL,J (mjs) 31.07.2025

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