

(2026) 01 MAD CK 1790

In the Madras High Court, Madurai Bench

Case No : Civil Miscellaneous Appeal (MD) No. 1242, 1243, 1244, 1245 Of 2014,
Miscellaneous Petition (MD) No. 1 Of 2014

Divisional Manager

APPELLANT

Vs

R.Perumalsamy And Others

RESPONDENT

Date of Decision : 07-01-2026

Acts Referred:

Citation : (2026) 01 MAD CK 1790

Hon'ble Judges : R.Poornima, J

Bench : Single Bench

Advocate : C.Jawahar Ravindran, N.Tamilmani, S.Srinivasa Raghavan

Final Decision : Dismissed

Judgement

R.Poornima, J

1. These Civil Miscellaneous Appeals arise out of the common award passed in MCOP Nos.166, 168, 170 and 171 of 2009, dated 05.10.2013 by the Motor Accident Claims Tribunal (Subordinate Court), Virudhunagar.

2. The brief case is as follows:-

On 01.05.2009 at about 04.00 am, the driver of the Maruti Omni bearing Registration No. TN-67-J-9640 was proceeding from Madurai to Virudhunagar Main Road, while the claimant in MCOP No.166 of 2009, he was nearing Nallammanaickenpatti junction a Lorry bearing Registration No.TN-69-K-0644 which was proceeding in front of the Maruti Omni and at that time, suddenly applied brakes without any prior signal and without noticing whether any vehicle was coming from behind the driver of the Lorry suddenly applied brakes. On noticing the same, the driver of the Maruti Omni Car applied the brake, however, the Omni Car dashed against the rear side of the lorry. In that process, the driver of the Maruti Omni Car and the persons who were travelling in the Omni Car sustained multiple grievous injuries all over their bodies. Immediately, thereafter, they were taken to the Apollo Specialty Hospital, Madurai, where they underwent

treatment for some time. Over the occurrence, a case in Crime No.77 of 2009 was registered by the Kallikkudi Police Station, Madurai District.

3. Claiming compensation for the injuries sustained in the accident, the claimants filed claim petitions separately for the injuries sustained by them as mentioned in the claim petitions.

4. Before the Tribunal, the Respondents 1, 3 and 4 were called absent and set ex-parte and only the 2nd respondent filed a counter denying the entire allegation contained in the claim petitions; the accident took place due to the total negligence on the part of the driver of the Maruti Omni Car and he only came in a rash and negligent manner and dashed against the lorry which was parked on the extreme left side of the road, so the driver of the Omni Car is solely responsible for the accident. Since the accident happened due to the negligent act of the driver of the Maruti Omni Car, the respondents 3 and 4 alone are liable to pay the compensation. The second respondent was impleaded only in the year 2012, after a period of three years from the date of the accident; if any award is passed, the claimants are entitled to interest only after the date of implead the second respondent in the claim petitions; FIR was registered and charge sheet was laid only against the driver of the Maruti Omni Car and the claim amount are excessive. Hence, the 2nd respondent is not liable to pay any compensation and prayed for dismissal of the claim petitions.

5. Before the Tribunal, on the side of the claimants, 7 witnesses were examined as P.W.1 and P.W.7 and 36 documents were marked as Exs.P1 to P36. On the side of the 2nd respondent Insurance Company, 1 witness was examined as R.W.1 and 1 document was marked as Ex.R1.

6. After considering the material evidence and records, the Tribunal awarded compensation of Rs.2,03,100/- in respect of MCOP No.168 of 2009; Rs.3,35,000/- in respect of MCOP No.166 of 2009; Rs.27,600/- in respect of MCOP No.170 of 2009 and Rs.16,000/- in respect of MCOP No.171 of 2009 together with interest at the rate of 7.5% per annum and directed the respondents 1 and 2 to pay the said award amount jointly and severally. The claim petitions were dismissed as against the respondents 3 and 4.

7. Aggrieved over the common order of the Tribunal, these Civil Miscellaneous Appeals have been preferred by the Insurance Company, disputing the manner of the accident and their liability to pay the compensation.

8. This Court considered the rival submission of the learned counsel appearing on either side and perused the materials available on record.

9. The appellant Insurance Company contended that at the time of the accident, the insured lorry was in a stationary position and was parked on the left side of the road, and that the Maruti Omni car, which was driven by its driver in a rash and negligent manner and dashed against the stationed vehicle. The driver of the Omni car is a tortfeasor and therefore the insurance company of the Maruti Omni

car alone is liable to pay compensation to the occupants for the injuries sustained.

Neither the owner of the lorry nor the appellant is liable to pay any compensation, as no negligence can be attributed to the lorry or its driver.

10. The appellant placed reliance on Ex.P1 being the FIR, lodged by Thiru.Rajendran, the driver of the Lorry, in Crime No.77 of 2009 dated 02.05.2009 against the first respondent who is the driver of the Maruti Omni Car and the claimant in MCOP No.166 of 2009.

11. The averment in the FIR read as follows:

"On the date of the accident, the driver and the cleaner had parked the lorry on the extreme left side of the road and had gone to a nearby hotel to have tea. At that time, the Maruti Omni car bearing registration number TN-67-J-9640 was driven rashly and negligently by its driver and collided with the stationed lorry. The Driver and the occupants of the Omni Car sustained injuries in the accident".

12. However, this Court finds that, although the lorry driver lodged an FIR against the driver of the Maruti Omni Car, neither the Lorry driver, nor the owner contested the claimant's case and both remained ex-parte. The driver of the lorry is an eyewitness to the occurrence and a competent person to narrate the manner of the accident, however, he has not come forward to adduce evidence. The insurance company failed to examine the cleaner of the Lorry who was alleged to have witnessed the occurrence.

13. According to the claimants, the lorry driver suddenly applied the brakes without any signal in a rash and negligent manner, and the driver of the Omni Car was unable to anticipate the same, and hit the rear side of the lorry. Further, the claimants stated that due to the accident, they were hospitalized on account of injuries sustained in the accident. Mere filing of FIR itself is not proof of the manner of the accident, especially when neither the driver nor the owner of the lorry has chosen to contest the claim petitions and come forward to adduce evidence to establish that the accident was due to the negligent act of the driver of the Maruti Omni Car to corroborate with the FIR. Furthermore, no final report was placed before the Tribunal to prove the result of the investigation.

14. The injured eye witnesses/claimants have clearly spoken about the accident. Further Ex.P2, Ex.P14, Ex.P16, being the accident registers issued to the injured persons reveal that the driver of the Maruti Omni Car and other occupants were admitted to the hospital soon after the accident and discharged afterwards. Therefore, it is inferred that soon after the accident, the driver and other occupants were admitted to the hospital for a considerable period, and there may have been a reason for non-filing of a complaint against the lorry driver quite some time and the reason for a complaint against the insured lorry by the claimants is not fatal to their case. Further, the mere non-filing of an FIR against the lorry driver is not fatal to the case of the claimants, as the owner of the lorry

and their driver did not contest the case.

15. The appellant examined R.W.1, who is not a fit person to speak about the accident. He admitted that the insurance company had appointed an investigating officer who inspected the place of occurrence and gathered connected documents, but the same were not produced by the insurance company. Based on the evidence and the documents, the Tribunal held that the driver of the lorry was liable for the negligent act for caused the accident. Since the vehicle was insured with the appellant, the Tribunal rightly held them liable to pay compensation which is just and proper and required no interference.

16. As far as quantum of compensation is concerned, the appellant contended that, the Tribunal calculated the compensation based on the disability certificate issued by the doctor without considering whether, the disability was permanent or temporary.

17. Upon perusal of the entire records it is found that the compensation awarded by the Tribunal to the injured witnesses was not based on disability claimed by them, but other relevant factors, viz medical bills, the duration of treatment, the nature of injuries sustained in the accident, the evidence of medical experts as well as the income of the injured which this Court finds to be just and reasonable require no interference by this Court. These Civil Miscellaneous Appeals lacks merit and the same are liable to be dismissed.

18. In the result, all the Civil Miscellaneous Appeals are dismissed and the common order dated 05/10/2013 passed in MCOP Nos.166, 168, 170 and 171 of 2009 on the file of the Motor Accident Claims Tribunal/ Subordinate Court, Virudhunagar, is hereby confirmed. No costs. Consequently, connected miscellaneous petitions are closed.