

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-06-2026

CORAM

WEB COPY

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

CMA No.1163 of 2024

Tata AIG General Insurance Co. Ltd.,
2nd Floor, Samson Towers,
No.403L, Pantheon Road, Egmore,
Chennai - 08.

..Appellant(s)

Vs

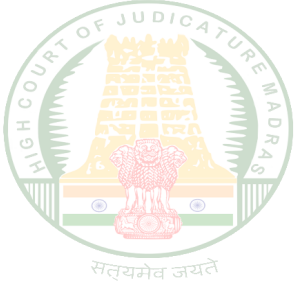
1. P.Ammu
2. Minor S.P.A. Puviarasu
(Minor Rep. by her mother 1st petitioner)
3. Jayalakshmi
4. T.Chakkaravarthy

..Respondent(s)

PRAYER : To set aside the order dated 29th day of September 2023 made in MCOP No.43 of 2020 on the file of Motor Accident Claims Tribunal No.1, Special District Court, Thiruvallur.

For Appellant(s): Mr.Vinod K

For Respondent(s): Mr.C.K.Chandrasekhar
for Mr.R.Prabu
for RR1 TO 4



WEB COPY

JUDGMENT**(Judgment of the Court was delivered by K.Rajasekar J.)**

The insurance company, challenging the liability fixed on them to pay compensation as per the award passed in M.C.O.P.No.43 of 2020 by Motor Accident Claims Tribunal No.1- cum- Special District Court, Thiruvallur., dated 29.09.2023, has filed this appeal.

2. The facts leading to the filing of this appeal are as under :

The husband of the first respondent, namely, R.S.Pugazhenth, while riding a two wheeler bearing registration No.TN-21-BK-2873 on Minjur – Vandalur Bypass Outer Ring Road on 31.12.2019, around 03.15 P.M., from North to South near Morey Overbridge, hit a TATA Ace vehicle bearing registration No.TN-75-J-4678 from behind, which was parked in the left side of the road without any indication, as a result of which the said Pugazhenth fell down from the vehicle and sustained grievous injuries on his head and other parts of the body and died on the spot. Immediately, one of the passersby called ambulance and police, whereupon a criminal case was registered against the driver of TATA Ace vehicle in Crime No.1641 of 2019 for offences under Sections 283 and 304 (A) of the Indian Penal Code on the file of Poonamallee Traffic Investigation Wing Police Station.

3. The petitioners 1 to 3 in M.C.O.P.No.43 of 2020, who are wife, minor son, and mother of the deceased Pugazhenth, filed the claim petition, claiming



WEB COPY

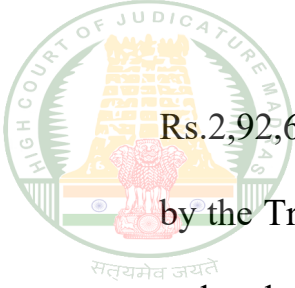
a compensation of Rs.25.00 crores for the death of the deceased. It was stated that the deceased was a Scientist in ISRO, working at Vikram Sarabhai Space Centre, Tiruvananthapuram, and was earning a sum of Rs.2,05,574/- per month.

It was also stated that due to the negligent parking of TATA Ace vehicle by its driver/the first respondent in the petition, the accident occurred. The second respondent in the petition was the insurer of TATA Ace vehicle. Hence, it was claimed that both the respondents 1 and 2 in the petition were liable to pay compensation.

4. During trial, on the side of claimants, P.Ws.1 to 3 were examined and Exs.P-1 to P-33 were marked. On the side of respondents, R.Ws.1 to 3 were examined and Exs.R-1 to R-10 were marked.

5. Before the Tribunal, the first respondent/driver of TATA Ace vehicle remained ex parte. The second respondent/insurer contested the claim, mainly on the ground that the deceased was responsible for the accident. It was also contended that the deceased, without due care and caution, drove the two wheeler at a high speed and dashed against the stationed vehicle. Further, it was contended that the compensation awarded under various heads was also on higher side.

6. The Tribunal, after considering the evidence placed on record, accepted the case of the claimants that the driver/first respondent parked TATA Ace vehicle in a negligent manner on the Outer Ring Road, which was the road meant for fast travel. By so holding, the Tribunal awarded a sum of



Rs.2,92,69,944/- along with interest towards compensation. It was also recorded by the Tribunal that since there was no fitness certificate, pay and recovery was ordered.

WEB COPY

7. Aggrieved over the negligence fixed on the driver/first respondent by the Tribunal, this appeal has been filed by the insurer, as stated above.

8. Learned counsel for the appellant/insurance company submitted that they had examined the driver of TATA Ace vehicle as R.W.1 and his evidence was not properly appreciated by the Tribunal. He would further submit that R.W.1 narrated the entire occurrence and there was ample evidence to show that though the driver of TATA Ace vehicle had parked the vehicle in the left side of the road in broad day light and there was sufficient caution to other vehicles to see the stationed vehicles, the deceased came on a two wheeler at high speed, due to which he could not stop the vehicle and dashed the stationed vehicle on rear side. The learned counsel also contended that P.W.2, who was alleged to have witnessed the occurrence, had stated that the deceased had dashed against the stationed vehicle. According to him, there was evidence to show that the deceased had driven the vehicle at high speed and hence contributory negligence was to be fixed on the deceased. The learned counsel also submitted that the road was having 200 feet width and if there was no contributory negligence, there could not be accident, which fact had also not been appreciated by the Tribunal. Accordingly, he prayed to set aside the award passed by the Tribunal.



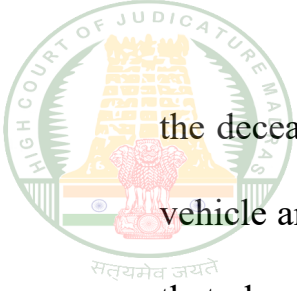
WEB COPY

9. Per contra, learned counsel for the respondents/claimants submitted that P.W.2, who was present at the scene of occurrence, had deposed that he only contacted ambulance and police for the purpose of intimating the accident.

The driver was not present at the time of occurrence and further the vehicle was admittedly parked on the Outer Ring Road, on which vehicles usually driven at high speed and it was also legally permissible to ride two wheelers at high speed on the said road. Further, there was also ample evidence to show that the accident had taken place while the vehicles were entering into an overbridge at Out Ring Road. Though the road was having a width of 200 ft., the place where TATA Ace vehicle was parked was on the third track, in which, usually, two wheelers would ply. Since the vehicle was stopped at the entry point of the overbridge, though the deceased had seen the vehicle, he could not be in a position to stop the two wheeler, which resulted in the accident. This fact was also properly appreciated by the tribunal. Accordingly, the learned counsel prayed to confirm the award passed by the Tribunal.

10. We have gone through the records and considered the submissions made on both sides.

11. Admittedly, on the side of claimants, an eye-witness to the occurrence, namely, P.W.2 was examined. Similarly, on the side of insurer, the driver of TATA Ace vehicle was examined as R.W.1. The evidence of P.W.2 reveals that he was a lorry driver and regular commuter. While he was travelling on the Outer Ring Road i.e., Minjur-Vandalur Road on his two wheeler, he saw



WEB COPY

the deceased riding his two wheeler 100 mts. away, dashing against the parked vehicle and falling down. Immediately, he, along with another person, rushed to that place and attempted to lift the injured person. However, they found that the injured suffered grievous injuries and was unconscious. Thereafter, he searched the injured pocket, took out mobile phone and contacted the wife of the injured. At the same time, he also contacted ambulance. Within 15 minutes, ambulance came to the spot and it was reported that the deceased had died on the spot. He also stated that TATA Ace vehicle was parked in a place where it was not visible from distance, as the road was slopy. Only after going nearer the place where TATA Ace vehicle was parked, the vehicle was visible. It was also stated that the place of occurrence was an elevated area on the Outer Ring Road. Similarly, the evidence of R.W.1 was also to the effect that since TATA Ace vehicle had suffered breakdown near Morey overbridge, it was parked there by him. He also deposed that he contacted vehicle mechanic and was waiting there. At that point of time, many vehicles had commuted and crossed over the parked vehicle. However, the deceased came on a two wheeler and dashed against TATA Ace vehicle on rear side. Immediately, he also called police and ambulance and helped to rescue the deceased. It was also admitted in his cross-examination that the place of occurrence, namely, Morey was situated on an elevated area and at the entry point of Minjur-Vandalur elevated road. He denied that the vehicle could be seen only after reaching nearer to the parked area. He also stated that many vehicles had crossed safely and he assisted the

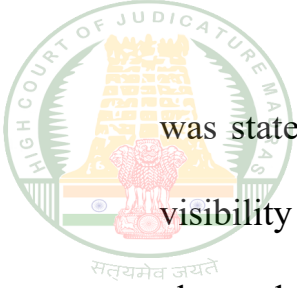


vehicles to move slowly to avoid accidents. The evidence of both these witnesses was appreciated by the Tribunal.

12. We have also gone through the evidence and considered the documents, such as Motor Vehicle Inspection Report, photographs produced to show the place of occurrence, and the First Information Report, Ex.P-1.

13. Admittedly, the F.I.R. was registered immediately after the accident. It was lodged by one of the lorry drivers, in which it was also stated that the vehicle was parked on the left side of the road and that the deceased riding his two wheeler and dashed against the rear side of the stationed vehicle, which resulted in causing grievous injuries and subsequently it was revealed that the deceased died on the spot. It was also an admitted fact that the place of occurrence was Outer Ring Road, on which usually vehicles moved fast and it was not like other roads, where regular traffic would commute. It was the road, connecting larger extent and outskirts of the city urban areas. That road was having three tracks. The extreme left side of the road was usually used by two wheelers for safe commute and other two tracks used by large vehicles, such as, cars, buses and other vehicles to commute at high speed.

14. Unfortunately, in this case, the TATA Ace vehicle was parked in the area, where usually two wheelers would commute. Apart from that, it was also an admitted case that the place where the vehicle was parked is an entry point of the elevated road and it is slopy bridge. This means that vehicles, before entering in the elevated area, may not easily see the parked vehicles. Though it



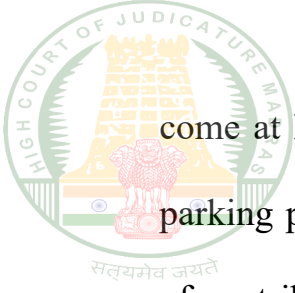
WEB COPY

was stated that the goods vehicle was parked in day time as stated above, the visibility was not sufficient for other vehicles, which were entering in the elevated corridor from the regular road. The evidence adduced by both sides only supports the case of the claimants that TATA Ace vehicle was parked dangerously in the two wheeler track.

15. The contention of the appellant/insurance company is that if the deceased had driven the two wheeler at a lesser speed, he could have avoided the accident. It is true that any vehicle coming with lesser speed can avoid accidents. However, the place, where the accident occurred, was meant for travel at high speed. With the expectation to drive fast, the deceased also might have entered into the elevated corridor at such speed. This could not be considered as a negligent act, because, all the vehicles entering into the Ring Road, travelled at high speed. If any vehicle moved slowly, it would disturb the regular traffic.

16. It is also to be noted that police had also investigated into the alleged occurrence and a final report was also filed against the driver of TATA Ace vehicle. There is also no rebuttal with regard to the criminal proceedings by the driver of the vehicle, namely, R.W.1. In view of the same, the evidence adduced on the side of the claimants shall be placed on a higher pedestal than that of the one placed by the respondent-insurer.

17. We are of the view that the parking of TATA Ace vehicle was the root cause for the accident. Though it is alleged that the deceased might have



WEB COPY

come at high speed, that could not be considered as a negligent act, since the parking place was a crucial point, triggering the accident. Therefore, fixing up of contributory negligence on the deceased would not be proper and we agree with the case of the claimants that the accident had occurred solely due to the negligent parking of TATA Ace vehicle on the track, which was specifically meant for two wheelers. As such, we are not inclined to fix contributory negligence on the deceased. Accordingly, the negligence fixed by the Tribunal on TATA Ace vehicle is confirmed. As far as the quantum is concerned, there is no challenge to it and hence we confirm the same.

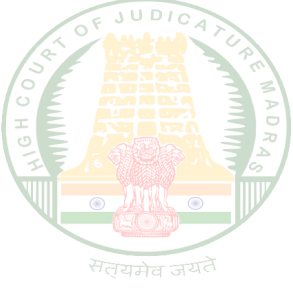
18. For all the above reasons, this Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, the connected C.M.P.No.10504 of 2024 is closed.

(C.V.K.,J.) (K.R.S.,J.)
03-06-2026

Index: Yes
Speaking order
Neutral Citation: Yes

DIXIT

To
Motor Accident Claims Tribunal No.1,
Special District Court,
Thiruvallur.



WEB COPY



**C.V.KARTHIKEYAN, J.
AND
K.RAJASEKAR, J.**

DIXIT

CMA No. 1163 of 2024

03-06-2026