



C.M.A.No.1047 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2026

CORAM:

THE HON'BLE MR. JUSTICE N. ANAND VENKATESH

C.M.A.No.1047 of 2026
and C.M.P.No.10458 of 2026

M/s.Shriram General Insurance Company Limited,
Represented by its Manager,
Having its Branch Office at,
VVTV Main Road,
Sathy Road, Erode – 638 003

... Appellant

Vs.

1. Nizar Ali
2. Logesh
3. B.Karthik

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the final award dated 13.08.2025 passed in MCOP No.849 of 2023 by the Motor Accidents Claims Tribunal (Special District Court), Erode.

For Appellant : Mr.J.Michael Visuvasam

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the Insurance Company challenging the award passed by the Motor Accident Claims



C.M.A.No.1047 of 2026

Tribunal, Special District Court, Erode, in MCOP No.849 of 2023 dated

13.08.2025.

2. The first respondent is the claimant. The claim petition was filed on the ground that on 01.01.2023, the claimant was riding a two wheeler on the Moolapattarai to Bhavani main road from South and North. At about 10.00 a.m., when the vehicle was near the Annapoorna theatre division road, the offending vehicle belonging to the second respondent herein was driven in a rash and negligent manner and hit the two wheeler of the claimant, as a result of which, the claimant was thrown away and sustained the following injuries:

1. RTA- Mild head injury concussion
2. Right leg injury
3. Fracture right tibia
4. Fracture right fabula
5. Anterior tibial artery injury
6. Hypovolemic shock
7. Soft tissue injuries

3. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking compensation.

4. The Tribunal, on considering the facts and circumstances of the case, the manner in which the accident had taken place and on



appreciation of oral and documentary evidence, found that the claimant had contributed to the accident by carrying a gas cylinder on the petrol tank portion of the two wheeler and accordingly, fixed 90% negligence on the part of the driver of the offending vehicle and contributory negligence was fixed at 10% on the claimant.

5. The Tribunal, having rendered the above finding, proceeded to fix the total compensation at Rs.7,09,042/- under the following heads:

<i>S.No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1	Disability	2,56,000
2	Partial loss of earnings for 6 months	84,000
3	Pain and Suffering	90,000
4	Loss of Amenities	50,000
5	Transport, Attender charges and nourishment	15,000
6	Medical Expenses	2,12,042
7	Damages to clothing and articles	2,000
Total		7,09,042

6. The 10% contributory negligence was deducted and the total compensation was fixed at Rs.6,38,138/-, which was directed to be paid



C.M.A.No.1047 of 2026

with interest at the rate of 7.5% per annum. Aggrieved by the same, the appellant/Insurance Company has filed the present appeal before this Court.

7. The first respondent/claimant has been served with notice and there is no representation either in person or through counsel. The second and third respondents remained *ex parte* before the Tribunal and therefore, notice to them is dispensed with.

8. Learned counsel for the appellant/Insurance Company broadly raised three grounds in this appeal, namely:

a) The driver of the offending vehicle did not possess a valid driving licence and in spite of the same, the Tribunal applied the principle of pay and recover, which is not legally sustainable.

b) The Tribunal, having found that the claimant was carrying a gas cylinder on the front portion of his two wheeler, ought to have attributed a higher percentage of contributory negligence to the claimant.

c) The compensation fixed under certain heads is on the higher side and requires modification.



C.M.A.No.1047 of 2026

WEB COPY

9. Insofar as the first ground is concerned, the same is squarely covered by a Division Bench of this Court in *The Branch Manager, ICICI Lombard General Insurance Co. Ltd., Thanjavur vs. Mariyapushpam and Others* [2026 (3) MLJ 924]. Hence, this ground raised by the appellant/Insurance Company is rejected.

10. Insofar as the second ground is concerned, this Court finds a lot of force in the same. Admittedly, the first respondent/claimant admitted during his evidence as follows:

PW1: mg;nghJ tz;oapd;Kd; gFjpapy; nfl;
rpyyz;liu itj;J Xl;or; brd;nwd; vd;why; rhpjhd;/

11. A person who carries a gas cylinder on the front portion of a two wheeler, over the petrol tank, obviously will not have complete control over the vehicle. A two wheeler is not meant for carrying a gas cylinder in this manner. Therefore, the Tribunal ought to have attributed a higher percentage of contributory negligence on the first respondent/claimant. The Tribunal had fixed the contributory negligence at 10% and this Court is inclined to increase the contributory negligence to 30%. Accordingly, 70% negligence is fixed on the driver of the offending vehicle and 30% contributory negligence is fixed on the first respondent/claimant.



C.M.A.No.1047 of 2026

12. Insofar as the third ground is concerned, this Court finds that the compensation fixed by the Tribunal under various heads is not very excessive warranting the interference of this Court.

13. In the light of the above discussions, the compensation granted by the Tribunal is modified to the extent that out of the total compensation of Rs.7,09,042/-, 30% contributory negligence has to be deducted and the remaining 70% of the compensation amounting to Rs. 4,96,330/- shall be paid by the appellant/Insurance Company along with interest at the rate of 7.5% per annum to the first respondent/claimant.

14. It is brought to the notice of this Court that the entire compensation has already been deposited by the appellant/Insurance Company. Hence, the first respondent/claimant is permitted to withdraw the modified compensation amount fixed by this Court along with accrued interest on due application. The balance amount shall be permitted to be withdrawn by the appellant/Insurance Company. Of course, it goes without saying that the Tribunal has already applied the principle of pay and recover and the same is sustained. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. No costs.



C.M.A.No.1047 of 2026

WEB COPY 15. In the result, this Civil Miscellaneous Appeal stands disposed of. Consequently, the connected miscellaneous petition is closed. No costs.

02.07.2026

Neutral Citation: Yes/No
ham

To

1. The Special District Judge,
Special District Court,
Motor Accidents Claims Tribunal,
Erode.
2. The Section Officer,
VR Section, High Court of Madras.



WEB COPY



C.M.A.No.1047 of 2026

N. ANAND VENKATESH, J.

ham

***C.M.A.No.1047 of 2026
and C.M.P.No.10458 of 2026***

02.07.2026