



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-07-2026

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THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CMA No. 1046 of 2024

S.Thangadurai
S/o. Subbaiah No. 5/45-1, Main Road,
Ichippatti Post, Palladam Taluk, Tiruppur District.

..Appellant(s)

Vs

1. K.Chenniappan
S/o. Kandhappa Gounder, No.117, Senthil Nagar,
Karumathampatti, Sulur,
Coimbatore - 641 668.
2. The Branch Manager
The New India Assurance Company Ltd.,
No. 47, Kumaran Shopping Complex,
Kumaran Road, Tiruppur.

..Respondent(s)

PRAYER: To enhance the award dated 09.01.2024 made in MCOP No. 698 of 2017 on the file of the Presiding Officer, Exclusive Motor Accidents Claims Tribunal at Tirupur.

For Appellant(s): Mr.M.Lokesh

For Respondent(s): Mr.K.Selvakumar For R1
Mr.R.Neethiperumal For R2



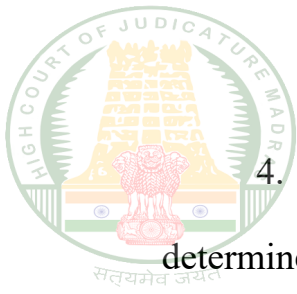
JUDGMENT

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This appeal has been filed against the award passed by the Presiding Officer, Exclusive Motor Accident Claims Tribunal, Tirupur made in M.C.O.P.No.698 of 2017, dated 09.01.2024.

2. The appellant is the claimant. The case of the claimant is that on 19.02.2017, the appellant was riding a two-wheeler from North to South at Karumathampatti direction, somanur road at about 21.15 hours, the offending vehicle was driven in a rash and negligent manner and it hit the two-wheeler belonging to the appellant, as a result of which, the appellant was thrown out of the vehicle and he sustained following injuries: *“Communitied fracture right temporal bone, Right temporal acute EDH, Left Temporal small SDH/SA with minimal naemorrhagic contusion, multiple abrasions on the right hand”*. It is under these circumstances, the claim petition came to be filed before the Tribunal.

3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence came to the conclusion that the accident had taken place only due to the rash and negligent driving on the part of the rider of the two-wheeler.



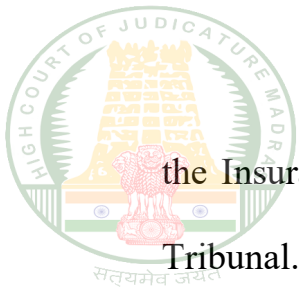
4. Having rendered the above finding, the Tribunal proceeded to determine the total compensation of Rs.4,15,926/- under the following heads:

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<i>Sl.No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of income for a period of 5 months till recovery	Rs.50,000/-
2.	Compensation for grievous injuries	Rs.75,000/-
3.	Expenses towards transportation	Rs.10,000/-
4.	Expenses towards extra nourishment	Rs.25,000/-
5.	Expenses towards attender charges	Rs.7,500/-
6.	Damages towards his cloths and articles	Rs.5,000/-
7.	Expenses incurred for treatment and medicines	Rs.1,68,426/-
8.	Pain and Suffering and Loss of amenities (Rs.50,000/- + Rs.25,000/-)	Rs.75,000/-
	Total	Rs.4,15,926/-

The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

5. The Tribunal found that the rider of the offending vehicle did not possess a valid driving licence and therefore, exonerated the Insurance Company from paying the compensation and directed the owner and driver of the offending vehicle to pay the compensation to the claimant. Aggrieved by the same, the claimant has approached this Court, questioning the exoneration of



the Insurance Company as well as the quantum of compensation fixed by the Tribunal.

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6. This Court carefully considered the submissions made by the learned counsel for the appellant and the materials available on record. This Court also carefully went through the award passed by the Tribunal.

7. Insofar as the liability is concerned, the Tribunal came to the conclusion that since the owner-cum-rider of the two-wheeler did not possess a valid driving licence, the Insurance Company cannot be made liable to pay the compensation.

8. The ground that was taken by the learned counsel appearing for the appellant is to the effect that the Tribunal ought not to have ordered pay and recover. It is seen that the accident had happened after the amendment and the policy issued was before the amendment. The said ground is squarely covered by the judgment of the Apex Court in *National Insurance Co. Ltd V. Swaran Singh and others reported in (2004) 3 SCC 297*. Hence, this Court does not find any illegality in the order passed by the Tribunal applying the principle of pay and recover.

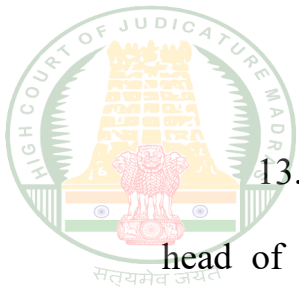


9. In view of the above, the principle of pay and recovery has to be applied in the case in hand and the Insurance Company shall pay the compensation to the claimant and recover the same from the owner-cum-rider of the offending vehicle.

10. In so far as the quantum of compensation is concerned, the main focus was on the compensation that was fixed under the head of disability. The Tribunal took into consideration Ex.C1, which is the disability certificate issued by the Medical Board. The Medical Board had assessed 35% partial permanent disability. However, the Tribunal proceeded to fix only 15% towards disability and applied the percentage method and fixed a sum of Rs.5,000/- per percentage.

11. In the considered view of this Court, the Medical Board had assessed the partial permanent disability at 35% and since the Tribunal was only granting compensation by adopting the percentage method, it was not necessary to reduce the percentage and a sum of Rs.5,000/- per percentage ought to have been fixed for the entire 35% physical disability.

12. In so far as the compensation granted under the other heads are concerned, the same are fair and reasonable and it does not require the interference of this Court.



13. In the light of the above discussion, the compensation fixed under the head of grievous injuries is modified to Rs.1,75,000/- (35% x Rs.5,000/-).

Accordingly, the compensation awarded by the Tribunal is modified as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	Loss of income for a period of 5 months till recovery	Rs.50,000/-	Rs.50,000/-
2.	Compensation for grievous injuries	Rs.75,000/-	Rs.1,75,000/-
3.	Expenses towards transportation	Rs.10,000/-	Rs.10,000/-
4.	Expenses towards extra nourishment	Rs.25,000/-	Rs.25,000/-
5.	Expenses towards attender charges	Rs.7,500/-	Rs.7,500/-
6.	Damages towards his cloths and articles	Rs.5,000/-	Rs.5,000/-
7.	Expenses incurred for treatment and medicines	Rs.1,68,426/-	Rs.1,68,426/-
8.	Pain and Suffering and Loss of amenities (Rs.50,000/- + Rs.25,000/-)	Rs.75,000/-	Rs.75,000/-
	Total	Rs.4,15,926/-	Rs.5,15,926/-

14. The compensation awarded by the Tribunal at Rs.4,15,926/- is enhanced to Rs.5,15,926/-. The above compensation amount shall be paid by the second respondent/Insurance Company together with interest at the rate of 7.5% p.a. from the date of claim petition till the date of deposit within a period of eight (8) weeks from the date of receipt of this judgment. On such payment, the amount can be recovered from the owner of the vehicle namely the first respondent by directly filing an Execution Petition. Insofar as the enhanced compensation is



concerned, the deficit court fee, if not paid, shall be paid by the appellant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

15. In the result, the Civil Miscellaneous Appeal is allowed. No costs.

01-07-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

SSI

To:

1. The Presiding Officer,
Exclusive Motor Accident Claims Tribunal,
Tirupur.
2. The Section Officer,
V.R. Section,
High Court of Madras.



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N.ANAND VENKATESH, J.

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