



N THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 07-07-2026**

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**THE HONOURABLE MR JUSTICE N. ANAND VENKATESH**

**CMA No. 2509 of 2022**

C.Sivakumar  
S/o Chellaperumal, No.6/17, 'O' Block,  
10th Street, Agathiyar Nagar,  
Chennai-600 049

Appellant(s)

Vs

1. R.Parthiban  
S/o Raj, No.92, Jothi Amman Nagar,  
6th Street, Shenoy Nagar, Chennai-600  
030

2.Reliance General Insurance Company  
Limited  
No.6, 4th Floor, Haddows Road,  
Nungambakkam, Chennai-600006

Respondent(s)

**PRAYER**

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 01.09.2020 in M.C.O.P.No.3610 of 2016, on the file of the Motor Accident Claims Tribunal, (V Small Causes Court, Chennai).

For Appellant(s): Mr.K.Varadha Kamaraj

For Respondent(s): P.Suresh Srinivasan for R2



## **ORDER**

This appeal has been filed against the award passed by the Motor Accident Claims Tribunal, (V Small Causes Court, Chennai) in M.C.O.P.No.3610 of 2016 dated 01.09.2020 wherein the claimant is seeking for enhancement of compensation fixed by the Tribunal.

2.The case of the claimant is that on 22.03.2016, he was riding a two wheeler at new Avadi Road and at about 20.30 hours, the offending vehicle which was another motorcycle was driven in a rash and negligent manner and it hit the two wheeler as a result of which the claimant sustained the following injury:

Compound of # base of 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> metatarsals R foot

The claimant underwent treatment as an inpatient for 9 days. 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 evidence came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the rider of the offending vehicle. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.1,40,700/- under the following heads:



| <b>Sl.No</b> | <b>Compensation awarded under the head</b>                           | <b>Amount<br/>(in Rs.)</b> |
|--------------|----------------------------------------------------------------------|----------------------------|
| 1.           | Towards Pain and Sufferings                                          | 25,000.00                  |
| 2.           | Towards Extra Nourishment and Transport                              | 25,000.00                  |
| 3.           | Disability 5% @ Rs.3,000/- per percentage                            | 15,000.00                  |
| 4.           | Medical Expenses                                                     | 17,000.00                  |
| 5.           | Loss of amenities                                                    | 25,000.00                  |
| 6.           | Damages to clothes                                                   | 1,000.00                   |
| 7.           | Loss of income for 2 months                                          | 30,000.00                  |
| 8.           | Attender charges                                                     | 2,700.00                   |
|              |                                                                      | <b>1,40,700.00</b>         |
|              | Less: 10% towards contributed negligence committed by the petitioner | <b>14,070.00</b>           |
|              |                                                                      | <b>1,26,630.00</b>         |
|              |                                                                      | <b>1,26,700/-</b>          |
|              | <b>Rounded off:</b>                                                  | <b>-----</b>               |

4.Since the claimant did not possess a valid driving license, the Tribunal attributed 10% contributory negligence and deducted the same from the total compensation and directed the 2<sup>nd</sup> respondent/Insurance Company to pay a compensation of Rs.1,26,700/- along with interest at the rate of 7.5% p.a. Aggrieved by the same, the claimant has filed the present appeal seeking for enhancement of compensation.

5.Heard the learned counsel for the appellant and the learned counsel for the 2<sup>nd</sup> respondent/Insurance Company.

6.The Tribunal while fixing the compensation under the head of ‘disability’ had considered the disability certificate marked as Ex.C.1 where the

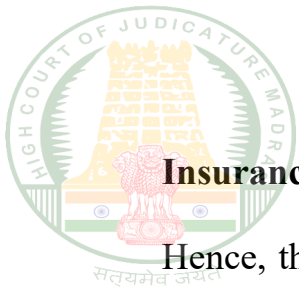


disability was assessed at 5%. The Tribunal adopted the percentage method and fixed at Rs.3000/- per percentage. Considering the fact that the accident had taken place in the year 2016, this Court is inclined to fix a sum of Rs.6,000/- per percentage. Accordingly, the compensation under the head of 'disability' is fixed at Rs.6,000/- per percentage at Rs.30,000/- (5% x Rs.6000).

7.This Court is also inclined to increase the compensation under the head of 'loss of income'. Considering the nature of injuries sustained by the claimant, who claims to be a Tailor, the claimant will certainly be out of action for atleast four months. Therefore, this Court is inclined to fix the compensation under the head of 'loss of income' at Rs.60,000/- [ 4 months x Rs.15,000/-].

8.The compensation that has been fixed under the other heads are reasonable and it does not require the interference of this Court.

9.The last issue pertains to the 10% contributory negligence attributed by the Tribunal on the ground that the claimant did not possess a valid driving license. It is now too well settled that the mere non-availability of a valid license, cannot result in attributing contributory negligence. Useful reference can be made to the judgment of the Apex Court in **Dinesh Kumar J Alias Dinesh .Vs. National**

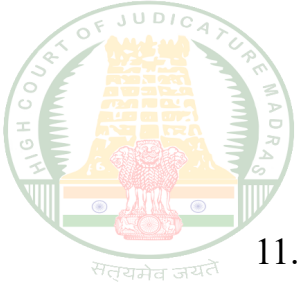


**Insurance Company Limited and Others** reported in **(2018) 1 SCC 750**.

Hence, the finding of the Tribunal fixing 10% 'contributory negligence' is also set aside by this Court.

10. In the light of the above discussion, this Court modifies the compensation in the following manner:

| <i>Sl. No.</i> | <i>Compensation awarded under the head</i>                           | <i>Amount awarded by the Tribunal (in Rs.)</i>                                 | <i>Amount awarded by this Court (in Rs.)</i> |
|----------------|----------------------------------------------------------------------|--------------------------------------------------------------------------------|----------------------------------------------|
| 1.             | Towards Pain and Sufferings                                          | 25,000.00                                                                      | 25,000/-                                     |
| 2.             | Towards Extra Nourishment and Transport                              | 25,000.00                                                                      | 25,000/-                                     |
| 3.             | Disability                                                           | 15,000.00                                                                      | 30,000/-                                     |
| 4.             | Medical Expenses                                                     | 17,000.00                                                                      | 17,000/-                                     |
| 5.             | Loss of amenities                                                    | 25,000.00                                                                      | 25,000/-                                     |
| 6.             | Damages to clothes                                                   | 1,000.00                                                                       | 1,000/-                                      |
| 7.             | Loss of income                                                       | 30,000.00                                                                      | 60,000/-                                     |
| 8.             | Attender charges                                                     | 2,700.00                                                                       | 2,700/-                                      |
|                |                                                                      | <b>1,40,700.00</b>                                                             | --                                           |
|                | Less: 10% towards contributed negligence committed by the petitioner | <b>14,070.00</b><br>-----<br><b>1,26,630.00</b><br>-----<br><b>1,26,700.00</b> | --                                           |
|                | <b>Rounded off:</b>                                                  |                                                                                |                                              |
|                |                                                                      | <b>1,40,700.00</b>                                                             | <b>1,85,700/-</b>                            |



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11.The compensation awarded by the Tribunal at Rs.1,40,700/- is enhanced to Rs.1,85,700/-. The 2<sup>nd</sup> respondent Insurance Company is directed to deposit the enhanced compensation amount, less the amount already deposited, 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 four (4) weeks from the date of receipt of this judgment. 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.

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

**07-07-2026**

Index: Yes/No  
Speaking/Non-speaking order  
Internet: Yes  
Neutral Citation: Yes/No

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To

Motor Accident Claims Tribunal  
(V Small Causes Court, Chennai).



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**N.ANAND VENKATESH J.**

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