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C.M.A.No.2190 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2026

CORAM:

THE HON'BLE MR. JUSTICE N. ANAND VENKATESH

C.M.A.No.2190 of 2026

Palanisamy

... Appellants

Vs.

1. Venkatachalam

2. The New India Assurance Company Ltd.,
Having Branch Office at Salem Division Office,
1st Floor, NM Arcade, Opp.ARRS Multiplex,
No.252, Meyyanoor Bye Pass Road,
Salem – 636 004.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order dated 02.12.2025 made in MCOP No.825 of 2024 on the file of the Motor Accident Claims Tribunal No.II, Special Sub Court No.II, Salem and enhance the compensation.

For Appellants : Mr.S.Ramprabu
for K.Vasanthanayagan

For Respondents : Mr.K.J.Sivakumar for R2



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JUDGMENT

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This civil miscellaneous appeal has been filed against the award passed by the learned Special Sub Judge No.II, Motor Accident Claims Tribunal No.II, Salem, in MCOP No.825 of 2024 dated 02.12.2025, wherein the claimant is seeking enhancement of compensation fixed by the Tribunal.

2. The case of the claimant is that on 06.05.2022, he was riding a two wheeler on the Neikaranpatti-Kondalampatti Road and at about 08.00 a.m., when he was coming near Ponnagoundar Kalyana Mandapam, an offending vehicle, which was a bus, was driven in a rash and negligent manner and dashed against his two wheeler. As a result, the claimant fell down and sustained a concussive head injury. Consequently, the claimant underwent treatment as an inpatient for five days. The First Information Report came to be filed against the driver of the offending vehicle in Crime No.236 of 2022. 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 appreciating the oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the offending vehicle.



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4. Having rendered the above finding, the Tribunal attributed 10% contributory negligence to the claimant on the ground that he did not possess a valid driving licence. Thus, 90% negligence was fixed on the driver of the offending vehicle.

5. The Tribunal, thereafter, proceeded to fix the total compensation at Rs.76,750/- under various heads as follows:

<i>S.No.</i>	<i>Heads</i>	<i>Compensation awarded by the Tribunal (in Rs.)</i>
1.	5% Permanent disability	40,000
2.	Pain and Suffering	10,000
3.	Loss of Amenities	5,000
4.	Loss of Income	10,000
5.	Medical Bills	-
6.	Transportation Charges	2,000
7.	Extra Nourishment	5,000
8.	Attender Charges	3,750
9.	Damages to cloth	1,000
Total		76,750
10% Contributory Negligence		7,675
Compensation Payable		69,075

From the above compensation, 10% contributory negligence was deducted and the balance amount of Rs.69,075/- was directed to be paid by the



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second respondent/Insurance Company along with interest at the rate of 7.5% per annum. Aggrieved by the same, the claimant has filed the present appeal seeking enhancement of compensation and also questioning the 10% contributory negligence fixed on him by the Tribunal.

6. Heard Mr.S.Ramprabu, learned counsel for the appellant/claimant and Mr.K.J.Sivakumar, learned counsel for the second respondent/Insurance Company.

7. This Court also carefully considered the materials available on record and went through the award passed by the Tribunal.

8. Insofar as the issue of negligence is concerned, the Tribunal, on appreciating the evidence, had reached a categorical conclusion that the negligence was entirely on the part of the rider of the offending vehicle. However, the Tribunal attributed 10% contributory negligence to the claimant only on the ground that he did not possess a valid driving licence. This finding rendered by the Tribunal is unsustainable since mere non-possession of a driving licence by itself will not constitute contributory negligence.



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9. It is now well settled that a person driving without a licence,

by itself, cannot give rise to an assumption of contributory negligence.

Useful reference can be made to the judgment of the Apex Court in *Dinesh Kumar J Vs. National Insurance Company Limited and others* [2018 1 SCC 750]. Therefore, this Court is inclined to interfere with the finding of the Tribunal attributing 10% contributory negligence to the claimant and the same is hereby set aside.

10. Insofar as the quantum of compensation is concerned, the accident had taken place in the year 2022 and the Tribunal, while fixing the compensation under the head 'Permanent disability', had fixed 5% disability on the basis of the disability certificate that was issued by the Medical Board, which was marked as Ex.C1 and adopted the percentage method and fixed Rs.8,000/- per percentage of disability. However, this Court is inclined to fix a sum of Rs.10,000/- per percentage of disability. Accordingly, the compensation under the head 'Permanent disability' is fixed at Rs.50,000/- (Rs.10,000/- x 5% of disability).

11. Insofar as the compensation under the head 'Loss of Income' is concerned, it is contended on the side of the claimant that he was a mason. Considering the nature of the injuries sustained by the claimant and



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also the year in which the accident took place, this Court is inclined to enhance the compensation under the head 'Loss of Income' to Rs.30,000/- (Rs.15,000/- x 2 months).

12. Insofar as the compensation fixed by the Tribunal under the other heads is concerned, this Court finds that the same is just and fair and does not require the interference of this Court.

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

<i>S.No.</i>	<i>Heads</i>	<i>Awarded by the Tribunal (in Rs.)</i>	<i>Modified by this Court (in Rs.)</i>
1.	5% Permanent disability	40,000	50,000
2.	Pain and Suffering	10,000	10,000
3.	Loss of Amenities	5,000	5,000
4.	Loss of Income	10,000	30,000
5.	Medical Bills	-	-
6.	Transportation Charges	2,000	2,000
7.	Extra Nourishment	5,000	5,000
8.	Attender Charges	3,750	3,750
9.	Damages to cloth	1,000	1,000
Total		76,750	1,06,750
10% Contributory Negligence		7,675	-
Compensation Payable		69,075	1,06,750



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14. The compensation awarded by the Tribunal is enhanced to Rs.1,06,750/-. The second respondent/Insurance Company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 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.

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

06.08.2026

Neutral Citation: Yes/No
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To

1. The Special Sub Judge No.II,
Motor Accident Claims Tribunal No.II,
Salem.
2. The Section Officer,
VR Section,
High Court of Madras.

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N. ANAND VENKATESH, J.

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