



WEB COPY



C.M.A.No.1960 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.1960 of 2026

Murali

... Appellants

Vs.

1. G.Murugan
2. The New India Assurance Company Ltd.,
Motor Third Party Claims,
Hub, No.252, 1st Floor,
NM Arcade, Opp.ARRS Multiplex,
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 18.02.2026 made in MCOP No.17 of 2025 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.J.Chandran for R2
Ex parte - R1



C.M.A.No.1960 of 2026

JUDGMENT

WEB COPY

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.17 of 2025 dated 18.02.2026, wherein the claimant is seeking enhancement of compensation fixed by the Tribunal.

2. The case of the claimant is that on 02.09.2023, he was riding a two wheeler towards Ayothipattinam and at about 11.45 a.m., an offending vehicle, which was also a two wheeler, was driven in a rash and negligent manner and dashed against the claimant's two wheeler. As a result, the claimant was thrown off from the two wheeler and sustained fractures of both maxilla, both zygomas and multiple facial bones. The claimant underwent treatment as an inpatient for 42 days in two spells, during which two surgeries were also performed. The First Information Report came to be filed against the rider of the offending vehicle in Crime No.858 of 2023. 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



C.M.A.No.1960 of 2026

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.

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 rider of the offending vehicle.

5. The Tribunal, thereafter, proceeded to fix the total compensation at Rs.6,53,000/- under various heads as follows:

<i>S.No.</i>	<i>Heads</i>	<i>Compensation awarded by the Tribunal (in Rs.)</i>
1.	34% Permanent disability	3,40,000
2.	Pain and Suffering	1,00,000
3.	Loss of Amenities	40,000
4.	Loss of Income	75,000
5.	Medical Bills	-
6.	Extra Nourishment	50,000
7.	Attender Charges	42,000
8.	Transportation	5,000
9.	Damages to cloth	1,000
Total		6,53,000
10% Contributory Negligence		65,300
Compensation Payable		5,87,700



C.M.A.No.1960 of 2026

From the above compensation, 10% contributory negligence was deducted and the balance amount of Rs.5,87,700/- was directed to be paid by the 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.

6. Heard Mr.S.Ramprabu, learned counsel for the appellant/claimant and Mr.J.Chandran, 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.



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, considering the nature of the injuries sustained by the claimant, the treatment undergone by him and the disability certificate that was issued by the Medical Board, which was marked as Ex.C1, the Tribunal found that the claimant had suffered 34% disability. The Tribunal also rendered a finding that the claimant suffered disfigurement of the face due to the injuries.

11. In view of the above, this Court is inclined to enhance the compensation under the heads 'Pain and Suffering' and 'Loss of Amenities' to Rs.1,50,000/- and Rs.1,00,000/- respectively.

12. This Court is also inclined to enhance the compensation under the head 'Loss of Income' to Rs.1,00,000/- (Rs.20,000/- x 5 months).



C.M.A.No.1960 of 2026

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:

S.No.	Heads	<i>Awarded by the Tribunal (in Rs.)</i>	<i>Modified by this Court (in Rs.)</i>
1.	34% Permanent disability	3,40,000	3,40,000
2.	Pain and Suffering	1,00,000	1,50,000
3.	Loss of Amenities	40,000	1,00,000
4.	Loss of Income	75,000	1,00,000
5.	Medical Bills	-	-
6.	Extra Nourishment	50,000	50,000
7.	Attender Charges	42,000	42,000
8.	Transportation	5,000	5,000
9.	Damages to cloth	1,000	1,000
Total		6,53,000	7,88,000
10% Contributory Negligence		65,300	-
Compensation Payable		5,87,700	7,88,000



C.M.A.No.1960 of 2026

14. The compensation awarded by the Tribunal is enhanced to Rs.7,88,000/-. 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
ham

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.

7/8



WEB COPY



C.M.A.No.1960 of 2026

N. ANAND VENKATESH, J.

ham

C.M.A.No.1960 of 2026

06.08.2026