



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 07-07-2026**

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**THE HON'BLE MR JUSTICE N. ANAND VENKATESH**

**Civil Miscellaneous Appeal No.2048 of 2026**

Vediyappan  
S/o.Arjunan

..Appellant

Vs

1. Jashithkumar  
S/o.Kannan
2. The United India Insurance Co. Ltd.,  
M.O.Office, Devasthanampudur,  
Rasipuram Post,  
Namakkal District - 637 406.
3. Raja  
S/o.Vedi

..Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award dated 03-01-2024 made in MCOP.No.659 of 2021 on the file of the Motor Accident Claims Tribunal / Special Sub-Court II, Salem.

For Appellant : Mr.T.S.Arthanareeswaran

For Respondents : Mr.D.Venkatachalam [R2]

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## JUDGMENT

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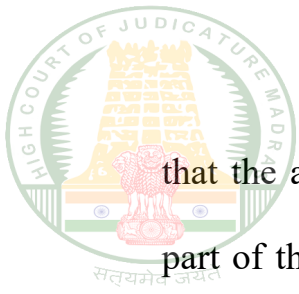
This appeal has been filed challenging the award dated 03-01-2024 passed in MCOP.No.659 of 2021 on the file of the Motor Accident Claims Tribunal/Special Sub-Court II, Salem, wherein the claimant has sought for enhancement of compensation.

2. The case of the claimant is that on 24.08.2020 at about 02.45 p.m., he was riding a two wheeler and was attempting to cross the Dharmapuri-Salem bye pass road and at that point of time, the offending vehicle, a Car, dashed on the claimant as a result of which the claimant sustained the following injuries:

- (a) closed comminuted fracture both bones right leg-mid/3rd;
- (b) open grade III B severely comminuted/shattered fracture both bones left leg lower/3rd with bone loss;
- (c) Grade IIIB severely comminuted fracture both bones loss-lower/3rd with extensive bone loss on external fixator; and
- (d) infected left BK stump with skin gangrene.

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 a conclusion

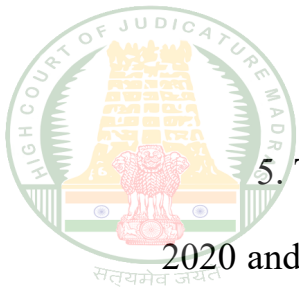


that the accident had taken place due to the rash and negligent driving on the part of the driver of the offending vehicle. Having rendered the above finding, the Tribunal proceeded to determine the compensation amount in the following manner:

| <i><b>Sl. No.</b></i> | <i><b>Compensation awarded under the head</b></i> | <i><b>Amount (in Rs.)</b></i> |
|-----------------------|---------------------------------------------------|-------------------------------|
| 1.                    | Loss of earning power                             | 18,90,000/-                   |
| 2.                    | Medical expenses                                  | 2,34,890/-                    |
| 3.                    | Pain and suffering                                | 1,00,000/-                    |
| 4.                    | Transportation & attender charges                 | 50,000/-                      |
| 5.                    | Loss of amenities and enjoyment of life           | 50,000/-                      |
| 6.                    | Damages to clothing and articles                  | 1,000/-                       |
|                       | <b>Total</b>                                      | <b>23,25,890/-</b>            |

The Tribunal fixed 20% contributory negligence against the claimant on the ground that the claimant did not possess a valid driving license. Accordingly, 20% was deducted from the total compensation and the second respondent insurance company was directed to pay compensation of Rs.18,60,712/- along with interest at the rate of 7.5% p.a. from the date of petition. Aggrieved by the same, the present appeal has been filed before this Court seeking enhancement of compensation.

4. Heard the learned counsel for the appellant and learned counsel for the second respondent insurance company.



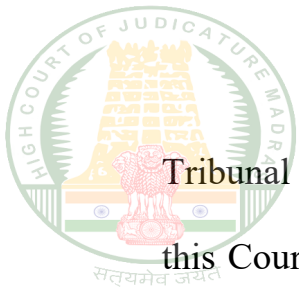
5. The main ground urged by appellant is that the accident was of the year 2020 and the Tribunal has assessed the loss of earning power at 75%, however, fixed only a sum of Rs.10,000/- as notional monthly income, which is on the lower side. It is further submitted that the compensation fixed under the other heads also requires enhancement.

6. The further contention put forth on the side of the appellant is that the Tribunal ought not to have deducted 20% towards contributory negligence merely on the ground that the claimant did not possess a valid driving license.

7. In the case in hand, the injuries suffered by the claimant has already been referred supra. For the said injuries, the claimant underwent the following procedures:

- (a) CRIF with interlocking nailing right tibia;
- (b) wound debridement/Ankle spanning external fixator left leg;
- (c) external fixator removal/left below knee amputation; and
- (d) wound debridement left stump skin.

8. The Tribunal considering the avocation of the claimant and also the nature of disability suffered, rightly came to a conclusion that the claimant suffered from functional disability and the corresponding loss of earning power was fixed at 70%. However, while fixing the notional monthly income, the

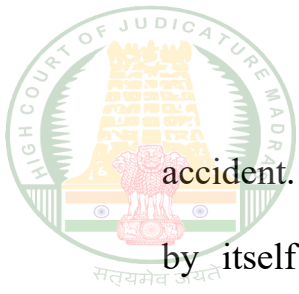


Tribunal fixed only a sum of Rs.10,000/-, which is on the lower side. Hence, this Court is inclined to fix the notional monthly income at Rs.17,000/-. In the light of the above discussion, the compensation under the head 'loss of earning power' is calculated as follows:

|                             |   |                       |
|-----------------------------|---|-----------------------|
| Monthly Income              | : | Rs. 17,000/-          |
| Add:40% future prospects    | : | Rs. 6,800/-           |
|                             |   | -----                 |
|                             |   | Rs. 23,800/-          |
|                             |   | x 12                  |
|                             |   | -----                 |
| Annual income               | : | Rs. 2,85,600/-        |
| Multiplier                  | : | x 15                  |
|                             |   | -----                 |
|                             |   | Rs.42,84,000/-        |
|                             |   | x 75%                 |
|                             |   | -----                 |
| Loss of earning power (75%) | : | <b>Rs.32,13,000/-</b> |
|                             |   | -----                 |

9. Considering the nature of injuries suffered, procedure undergone and the number of days treatment taken by the claimant as an inpatient, this Court is inclined to enhance the compensation under the heads 'pain and suffering' and 'loss of amenities and enjoyment of life' to Rs.1,50,000/- and Rs.1,00,000/- respectively. The compensation fixed under the other heads are just and reasonable and they are sustained.

10. The Tribunal has fixed 20% contributory negligence only on the ground that the claimant did not possess a valid driving license at the time of

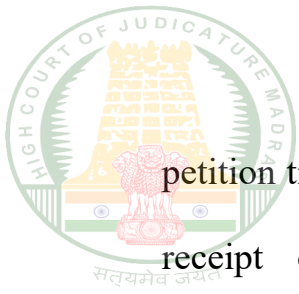


accident. It is now too well settled that mere non-possession of driving license by itself cannot be a ground to attribute contributory negligence. Useful reference can be made to the judgment of the Apex Court in ***Dinesh Kumar J. v. National Insurance Company Limited & others [(2018) 1 SCC 750]***. In view of the same, the finding of the Tribunal attributing 20% contributory negligence is set aside.

11. Accordingly, the modified compensation would be:

| <b><i>Sl. No.</i></b> | <b><i>Compensation awarded under the head</i></b> | <b><i>Amount by the Tribunal (in Rs.)</i></b> | <b><i>Amount awarded by this Court (in Rs.)</i></b> |
|-----------------------|---------------------------------------------------|-----------------------------------------------|-----------------------------------------------------|
| 1.                    | Loss of earning power                             | 18,90,000/-                                   | 32,13,000/-                                         |
| 2.                    | Medical expenses                                  | 2,34,890/-                                    | 2,34,890/-                                          |
| 3.                    | Pain and suffering                                | 1,00,000/-                                    | 1,50,000/-                                          |
| 4.                    | Transportation & attender charges                 | 50,000/-                                      | 50,000/-                                            |
| 5.                    | Loss of amenities and enjoyment of life           | 50,000/-                                      | 1,00,000/-                                          |
| 6.                    | Damages to clothing and articles                  | 1,000/-                                       | 1,000/-                                             |
|                       | <b>Total</b>                                      | <b>23,25,890/-</b>                            | <b>37,48,890/-</b>                                  |

12. The compensation awarded by the Tribunal at Rs.23,25,890/- is enhanced to Rs.37,48,890/-. The second 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 six (6) weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.14,23,000/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay of 384 days as was ordered by this Court in C.M.P.No.16968 of 2025 in C.M.A.Sr.No.102914 of 2025 dated 09.06.2026. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant/claimant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

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

**07-07-2026**

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

To  
The Motor Accident Claims Tribunal,  
Special Sub-Court II, Salem.



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**N.ANAND VENKATESH, J.**

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**Civil Miscellaneous Appeal No.2048 of 2026**

**07-07-2026**