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CMA.No.2248 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-07-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CMA No.2248 of 2025

V.Marteen Amalraj
S/o Vincenti, Res at
D.No.13, Krishna Nagar,
Uppilipalayam Main Road,
Sowripalayam, Coimbatore 641 028

...Appellant

Vs

1. S.Boopathi
S/o Saminathan,
Residing at No.26/71,
Udayampalayam Main Road,
3rd Street, Sowripalayam,
Coimbatore
2. K.Swaminathan
S/o Karuppusamy,
Residing at No.98-B,
Udayampalayam Main Road,
3rd Street, Sowripalayam,
Coimbatore 641 028
3. ICICI Lombard General Insurance
Co.Ltd., Having office at Sigma Towers,
1st Floor, Narayanasamy Naidu Layout,
29-35, Kattoor Road, Coimbatore 641 037

...Respondents



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APPEAL under Section 173 of the Motor Vehicles Act, 1988
against the award dated 07.4.2025 made in MCOP.No.1584 of 2022
on the file of the Motor Accidents Claims Tribunal/Special Sub Court,
Coimbatore.

For Appellant : Mr.M.Lokesh

For Respondents : Mr.J.Michael Visuvasam for R3
R1 & R2 -served & no appearance

JUDGMENT

This appeal has been filed by the appellant - claimant
challenging the award dated 07.4.2025 passed in MCOP.No.1584 of
2022 on the file of the Motor Accident Claims Tribunal/Special Sub
Court, Coimbatore.

2. Heard the learned counsel for the appellant and the learned
counsel appearing for the third respondent – Insurance Company.

3. The case of the appellant – claimant is as follows:

(i) On 22.10.2022, at about 9.00 AM, the appellant was riding
his two wheeler along with a pillion rider, who is none other than his



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wife, on Udayampalayam Main Road, Coimbatore. At that point of time, the first respondent rode the auto rickshaw in a rash and negligent manner and dashed against the two wheeler of the appellant, as a result of which, the appellant sustained grievous injuries and was immediately taken to Royal Care Hospital. A first information report (FIR) came to be registered in Crime No.513 of 2022 on the file of the Coimbatore City Police Station. It was under those circumstances, the claim petition came to be filed before the Tribunal below.

(ii) The Tribunal below, 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.

(iii) Having rendered the above finding, the Tribunal proceeded to determine the compensation amount in the following manner:

<i>S.No.</i>	<i>Head</i>	<i>Amount</i>
<i>1</i>	<i>Transportation Expenses</i>	<i>Rs. 10,000/-</i>
<i>2</i>	<i>Extra Nourishment</i>	<i>Rs. 25,000/-</i>



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3	<i>Attender Charges</i>	<i>Rs. 25,000/-</i>
4	<i>Damages to clothes and other valuables</i>	<i>Rs. 5,000/-</i>
5	<i>Medical Expenses</i>	<i>Rs. 2,206/-</i>
6	<i>Pain and Suffering</i>	<i>Rs. 50,000/-</i>
7	<i>Loss of Income</i>	<i>Rs. 30,000/-</i>
8	<i>Loss of amenities</i>	<i>Rs. 25,000/-</i>
	<i>Total</i>	<i>Rs. 1,72,206/-</i>

(iv) Considering the fact that the driver of the offending vehicle did not possess a valid driving license, the above compensation amount of Rs.1,72,206/- was directed to be paid by respondents 1 and 2, who were none other than the driver and the owner of the offending vehicle, along with interest at the rate of 7.5% per annum from the date of the petition till realization. Further, the claim petition was dismissed as against the third respondent – Insurance Company. The appellant – claimant has filed the above appeal mainly on the ground that since the driver of the offending vehicle did not possess a valid driving license, the pay and recovery ought to have been ordered.



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4. This Court carefully considered the submissions made by the learned counsel appearing on either side and perused the materials available on record and more particularly the impugned award.

5. The ground that was taken by the learned counsel appearing for the appellant is to the effect that the Tribunal below ought to have ordered for pay and recovery.

6. It is seen that the accident had happened after the amendment and the policy issued is before the amendment. The said ground is squarely covered by the judgment of the Apex Court in the case of ***National Insurance Co. Ltd Vs. Swaran Singh [reported in (2004) 3 SCC 297]***. This Court is of the view that the Tribunal below ought to have applied the principle of pay and recovery. Consequently, the award passed by the Tribunal below directing the first and second respondents to pay the compensation amount to the appellant is liable to be interfered by this Court.



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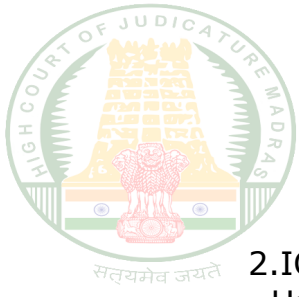
7. In so far as the issue of quantum of compensation is concerned, this Court finds that the Tribunal below granted a just and reasonable compensation and that it does not require the interference of this Court.

8. In the result, this civil miscellaneous appeal is partly allowed. The third respondent - Insurance Company is directed to deposit the entire compensation amount as awarded by the Tribunal below along with accrued interest at the rate of 7.5% per annum from the date of claim petition till realization, if not already deposited. On such deposit being made, the appellant - claimant will be entitled to withdraw the entire compensation amount together with accrued interest. It goes without saying that the third respondent - Insurance Company is entitled to recover the entire compensation amount along with accrued interest as awarded by the Tribunal below from respondents 1 and 2. No costs.

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To
1.The Motor Accidents Claims Tribunal/
Special Sub Court, Coimbatore.

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2.ICICI Lombard General Insurance Co.Ltd.,
Having office at Sigma Towers, I Floor,
Narayanasamy Naidu Layout, 29-35,
Kattoor Road, Coimbatore 641 037

RS



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