



WEB COPY



CMA.Nos.3097 of 2024
& 2146 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-07-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

Civil Miscellaneous Appeal Nos.3097 of 2024 & 2146 of 2025

CMA No.3097 of 2024 :

Minor.Srinithi, D/o. Murugesan,
Rep.by next friend & father
Murugesan, residing at No.96,
Bhavani Main Road, Sulaimedu,
Periyapuliyur, Alathur, Bhavani Taluk,
Erode District.

...Appellant

Vs

1. M.Saminathan, S/o. Muthunaicker,
residing at No.141, Alathur,
Bhavani Taluk, Erode Dist.
2. The United India Insurance Company Ltd.
Rep.by its Manager, KMR Complex, Mettur
Main Road, Bhavani.

...Respondents

CMA.No.2146 of 2025 :

Sivasakthi, S/o. Murugesan,
Residing at No.96, Bhavani Main Road,
Sulaimedu, Periyapuliyur, Alathur,
Bhavani Taluk, Erode District.

...Appellant



CMA.Nos.3097 of 2024
& 2146 of 2025

Vs

WEB COPY

1. M.Saminathan, S/o. Muthunaicker,
No.141, Alathur, Bhavani Taluk, Erode
District.
2. The United India Insurance Company
Limited, Rep. by its Manager,
KMR Complex, Mettur Main Road, Bhavani

...Respondents

APPEALS under Section 173 of the Motor Vehicles Act against
the award dated 22.12.2022 made respectively in MCOP.Nos.288 &
289 of 2018 on the file of the Motor Accident Claims Tribunal Cum
IV Additional District & Sessions Judge, Erode District at Bhavani.

For Appellant
in both CMAs:

Mr.C.Kulanthaivel

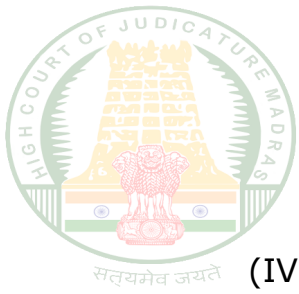
For Respondents
in both CMAs:

Mr.D.Venkatachalam for R2

R1 - Notice Dispensed With

COMMON JUDGMENT

These appeals have been filed by the appellants - claimants
against the common award dated 22.12.2022 made in MCOP.Nos.
288 & 289 of 2018 on the file of the Motor Accidents Claims Tribunal



CMA.Nos.3097 of 2024
& 2146 of 2025

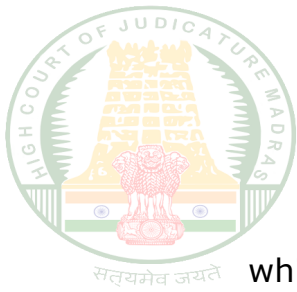
WEB COPY

(IV Additional District & Sessions Court), Erode District at Bhavani (for short, the Tribunal below) wherein they are questioning 50% contributory negligence attributed against them by the Tribunal below and are also seeking for enhancement of compensation under certain heads.

2. Heard the learned counsel appearing for the appellant in both the appeals and the learned counsel appearing for the second respondent – Insurance Company.

3. The case of the appellants – claimants is as follows:

(i) The appellants – claimants are brother and sister. The appellant in CMA.No.2146 of 2025 – brother was riding a two wheeler on 15.7.2018 and the appellant in CMA.No.3097 of 2024 – sister was the pillion rider. At the time of accident, the two wheeler was ridden at Sulaimedu to Karattupalayam Road and at about 3.30 PM, the offending vehicle, which was also a two wheeler and which was owned and driven by the first respondent in a rash and negligent manner, dashed on the two wheeler that was driven by the brother namely appellant in CMA.No.2146 of 2025, as a result of



CMA.Nos.3097 of 2024
& 2146 of 2025

WEB COPY

which, both the appellants – claimants fell down and sustained serious injuries. It was under those circumstances, the claim petitions 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 the oral and documentary evidence, came to the conclusion that it was the rider of the offending vehicle, who had driven the vehicle in a rash and negligent manner. However, the Tribunal below also rendered a finding that the appellants – claimants were not wearing a helmet and that the rider of the offending vehicle did not possess a valid driving licence. Ultimately, the Tribunal below fixed 50% contributory negligence on the part of the appellants – claimants.

(iii) Having rendered the above finding, the Tribunal below fixed the total compensation at Rs.31,000/- in respect of MCOP.No. 288 of 2018 (CMA.No.3097 of 2024):

<i>S.No.</i>	<i>Head</i>	<i>Amount</i>
1	<i>Pain & suffering</i>	<i>Rs.40,000/-</i>
2	<i>Medical expenses</i>	<i>Rs.10,000/-</i>
3	<i>Transport to hospital</i>	<i>Rs. 5,000/-</i>
4	<i>Extra nourishment</i>	<i>Rs. 4,000/-</i>
5	<i>Damage to cloths & articles</i>	<i>Rs. 3,000/-</i>
	<i>Total</i>	<i>Rs.62,000/-</i>
	<i>After fixing contributory negligence at 50%</i>	<i>Rs.31,000/-</i>



CMA.Nos.3097 of 2024
& 2146 of 2025

WEB COPY

(iv) Further, the Tribunal below fixed the total compensation at Rs.79,710/- in respect of MCOP.No.289 of 2018 (CMA.No.2146 of 2025):

S.No.	Head	Amount
1	Pain & suffering	Rs. 50,000/-
2	Medical expenses	Rs. 57,420/-
3	Permanent disability	Rs. 40,000/-
4	Transport & Extra nourishment	Rs. 9,000/-
5	Damage to cloths & articles	Rs. 3,000/-
	Total	Rs.1,59,420/-
	After fixing contributory negligence at 50%	Rs. 79,710/-

(v) The second respondent – Insurance Company was directed to pay the total compensation amount together with interest at the rate of 7.5% per annum from the date of claim petitions till payment. The Tribunal below further ordered for pay and recovery. Aggrieved by that, the appellants – claimants have filed the above appeals.

4. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned common award.



CMA.Nos.3097 of 2024
& 2146 of 2025

WEB COPY

5. In the case in hand, the Tribunal below had rendered a finding that the rider of the offending vehicle – the first respondent had driven the vehicle in a rash and negligent manner. After having rendered the said finding, the Tribunal below ought not to have attributed contributory negligence at 50% on the part of the appellants – claimants only on the ground that the appellants – claimants did not wear a helmet and that the rider of the offending vehicle did not possess a valid driving licence. That, by itself, is not a reason to attribute contributory negligence on the part of the appellants – claimants. Further, in view of the decision of the Hon'ble Apex Court in the case of ***Dinesh Kumar,J (a) Dinesh,J Vs. National Insurance Co.Ltd. [reported in 2018 (1) SCC 750]***, the finding of the Tribunal below attributing 50% contributory negligence on the appellants – claimants is hereby set aside.

6. The compensation that has been fixed by the Tribunal below under the other heads is found to be fair and reasonable and it is sustained as it is. The finding of the Tribunal below with regard to pay and recovery is also sustained.



CMA.Nos.3097 of 2024
& 2146 of 2025

WEB COPY

7. In the light of the above discussions, the above civil miscellaneous appeals are partly allowed and the common award dated 22.12.2022 made in MCOP.Nos.288 & 289 of 2018 is modified in the following manner :

(i) CMA.No.3097 of 2024 (MCOP.No.288 of 2018) :

S.No.	Head	Amount awarded by the Tribunal below	Amount awarded by this Court in this judgment
1	Pain & suffering	Rs.40,000/-	Rs.40,000/-
2	Medical expenses	Rs.10,000/-	Rs.10,000/-
3	Transport to hospital	Rs. 5,000/-	Rs. 5,000/-
4	Extra nourishment	Rs. 4,000/-	Rs. 4,000/-
5	Damage to cloths & articles	Rs. 3,000/-	Rs. 3,000/-
	Total	Rs.62,000/-	Rs.62,000/-
	Final compensation	Rs.31,000/- (after fixing contributory negligence at 50%)	Rs.62,000/- (finding with regard to contributory negligence at 50% is set aside)

(ii) CMA.No.2146 of 2025 (MCOP.No.289 of 2018) :

S.No.	Head	Amount awarded by the Tribunal below	Amount awarded by this Court in this judgment
1	Pain & suffering	Rs. 50,000/-	Rs. 50,000/-
2	Medical expenses	Rs. 57,420/-	Rs. 57,420/-
3	Permanent disability	Rs. 40,000/-	Rs. 40,000/-
4	Transport & Extra nourishment	Rs. 9,000/-	Rs. 9,000/-
5	Damage to cloths & articles	Rs. 3,000/-	Rs. 3,000/-
	Total	Rs.1,59,420/-	Rs.1,59,420/-



WEB COPY



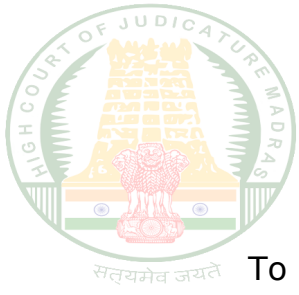
CMA.Nos.3097 of 2024
& 2146 of 2025

<i>Final compensation</i>	<i>Rs. 79,710/- (after fixing contributory negligence at 50%)</i>	<i>Rs.1,59,420/- (finding with regard to contributory negligence at 50% is set aside)</i>
---------------------------	---	---

There shall be a direction to the second respondent – Insurance Company to deposit the entire compensation amount as awarded in this common judgment **less the amount already deposited** together with interest at the rate of 7.5% per annum from the date of the respective claim petition till deposit, within four weeks from the date of receipt of a copy of this common judgment. On such deposit, the appellants – claimants will be entitled to withdraw the same together with accrued interest. It is open to the second respondent – Insurance Company to recover the entire compensation amount along with accrued interest from the first respondent. The appellants – claimants will not be entitled to interest for the delayed period of 153 days in filing the appeals as was made clear in the orders passed by this Court dated 29.10.2024 and 16.7.2025 respectively in CMP.No.26355 of 2023 in CMA.SR.No. 140066 of 2023 and CMP.No.26543 of 2023 in CMA.SR.No.140065 of 2023.

16-07-2026

Page 8 of 10



CMA.Nos.3097 of 2024
& 2146 of 2025

WEB COPY

To

1.The Motor Accident Claims Tribunal-
cum-IV Additional District & Sessions
Judge, Erode District at Bhavani

2.The United India Insurance Company Ltd.,
Rep by its Manager, KMR Complex,
Mettur Main Road, Bhavani.

RS



WEB COPY



CMA.Nos.3097 of 2024
& 2146 of 2025

N.ANAND VENKATESH,J

RS

**CMA.Nos.3097 of 2024
& 2146 of 2025**

16-07-2026

Page10 of 10