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CMA.No.3817 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. 3817 of 2025**

Prema, W/o Pongiyappan,  
D.No 2/2-128, Neducheliyan Nagar,  
Chettiyar Post, Kannamuchi  
Salem District-636303.

...Appellant

Vs

1. Venkatachalam  
S/o Kandhasamy,  
D.No 418/B,  
Kakkan Colony backside,  
Udaiyappatty,  
Salem District-636140
2. GO DIGIT General Insurance Co.Ltd  
No.11, People's Part, 3rd Floor,  
Government Arts College Road,  
Coimbatore-641 018.

...Respondents

APPEAL under Section 173 of the Motor Vehicles Act against  
the award dated 26.11.2024 made in MCOP.No.234 of 2023 on the  
file of the Motor Accidents Claims Tribunal-2/Special Sub-Court No.2  
for MCOP Cases at Salem.



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For Appellant:  
For Respondents:

Mr.M.Lokesh  
Mr.J.Michael Visuvasam for R2  
R1 – served & no appearance

### **JUDGMENT**

This appeal has been filed by the appellant - claimant challenging the award dated 26.11.2024 passed in M.C.O.P.No.234 of 2023 by the Motor Accident Claims Tribunal-2/Special Sub Court No.2 for MCOP Cases, Salem (for short, the Tribunal below).

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

3. The case of the claimant is as follows:

(i) On 01.12.2022, at about 8.45 PM, when the appellant – claimant was travelling as a pillion rider in a two wheeler belonging to the first respondent at Salem-Chennai National Highways, the first respondent drove the vehicle in a rash and negligent manner



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and when he attempted to overtake a mini tempo, the handle bar of the two wheeler rubbed against the mini tempo, as a result of which, the appellant fell down and the mini tempo ran over the appellant's left side thigh, on account of which, she sustained grievous injuries and was immediately taken to Salem Government Hospital. A first information report came to be registered in Crime No.631 of 2022 on the file of Salem Ammapet 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 of the first respondent.

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



| S.No. | Head                     | Amount        |
|-------|--------------------------|---------------|
| 1     | 25% Permanent Disability | Rs.1,50,000/- |
| 2     | Pain and suffering       | Rs. 30,000/-  |
| 3     | Medical Bills            | -----         |
| 4     | Transportation charges   | Rs. 5,000/-   |
| 5     | Attender charges         | Rs. 10,000/-  |
| 6     | Extra Nourishment        | Rs. 10,000/-  |
| 7     | Loss of amenities        | Rs. 5,000/-   |
| 8     | Loss of income           | Rs. 21,000/-  |
| 9     | Damages to cloth         | Rs. 1,000/-   |
|       | Total :                  | Rs.2,32,000/- |

(iv) The above total compensation amount was directed to be paid by the first respondent along with interest at the rate of 7.5% per annum from the date of the petition till deposit. The appellant - claimant has filed the above appeal mainly on the ground that the first respondent did not possess a valid driving license and that therefore, pay and recovery ought to have been ordered.



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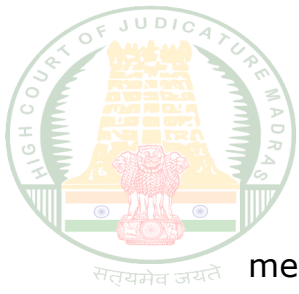
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4. This Court carefully considered the submissions made by the learned counsel on either side and perused the materials available on record and more particularly the impugned award.

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

6. The said ground is squarely covered by the judgment of this Court in a batch of appeals in CMA.(MD).No.517 of 2025 etc, dated 01.6.2026. 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 respondent to pay the compensation amount to the appellant - claimant is liable to be interfered by this Court.

7. In the case in hand, the accident had taken place in the year 2022. The Medical Board had assessed the disability at 25% under Ex.C.1. The Tribunal below, while adopting the percentage



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method, had fixed only a sum of Rs.6,000/- per percentage and in the considered view of this Court, this is certainly on the lower side. Hence, this Court is inclined to increase to Rs.10,000/- per percentage. Hence, the compensation under the head 'disability' is fixed at Rs.2,50,000/- [Rs.10,000/- per percentage X 25].

8. The compensation fixed under the other heads is reasonable and does not require the interference of this Court.

9. Accordingly, the above civil miscellaneous appeal is partly allowed and the award dated 26.11.2024 in MCOP.No.234 of 2023 on the file of the Tribunal below is modified as follows:

| S.N o. | Head                     | Amount awarded by the Tribunal below | Amount awarded by this Court in this appeal |
|--------|--------------------------|--------------------------------------|---------------------------------------------|
| 1      | 25% Permanent Disability | Rs.1,50,000/-                        | Rs.2,50,000/-                               |
| 2      | Pain and suffering       | Rs. 30,000/-                         | Rs. 30,000/-                                |
| 3      | Medical Bills            | -----                                | -----                                       |
| 4      | Transportation charges   | Rs. 5,000/-                          | Rs. 5,000/-                                 |
| 5      | Attender charges         | Rs. 10,000/-                         | Rs. 10,000/-                                |

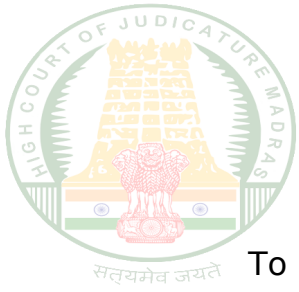


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|   |                          |                      |                      |
|---|--------------------------|----------------------|----------------------|
| 6 | <i>Extra Nourishment</i> | <i>Rs. 10,000/-</i>  | <i>Rs. 10,000/-</i>  |
| 7 | <i>Loss of amenities</i> | <i>Rs. 5,000/-</i>   | <i>Rs. 5,000/-</i>   |
| 8 | <i>Loss of income</i>    | <i>Rs. 21,000/-</i>  | <i>Rs. 21,000/-</i>  |
| 9 | <i>Damages to cloth</i>  | <i>Rs. 1,000/-</i>   | <i>Rs. 1,000/-</i>   |
|   | <i>Total :</i>           | <i>Rs.2,32,000/-</i> | <i>Rs.3,32,000/-</i> |

The second respondent - Insurance Company is directed to deposit the enhanced compensation as awarded in this judgment **less the amount already deposited** along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit within a period of four weeks (4) from the date of receipt of a copy of this judgment. In so far as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant – claimant. The second respondent – Insurance Company is entitled to recover the amount awarded in this appeal together with interest from the first respondent, who is none other than the driver-cum-owner of the two wheeler. The other directions issued by the Tribunal below with regard to the mode of payment of compensation remain unaltered. No costs.

**09-07-2026**



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To

1. The Motor Accidents Claims Tribunal-2/  
Special Sub Court No.2 at Salem
2. GO DIGIT General Insurance Co.Ltd  
No.11, Peoples Part, 3rd Floor,  
Government Arts College Road, Coimbatore  
641 018.

RS



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**N.ANAND VENKATESH,J**

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