



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2026

WEB COPY

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.2082 of 2026

Selvaraj

..Appellant

.VS.

1.Pachiyappan

2.M/s.Shri Ram General Insurance Company Ltd.,
1st Floor, Front Portion, No,5-F,
Sachin Plaza, Reddiyar Block No.1,
Salem – 636 016.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the order dated 30.09.2024 made in MCOP.No.100 of 2023, on the file of the Motor Accident Claims Tribunal, Special Sub Court I, Salem.

For Appellants : Mr.K.Vasanthanayagam

For Respondents : Mr.N.Vijayaraghavan for R2

JUDGMENT

This appeal has been filed challenging the Award passed by the MACT, Special Sub Court I, Salem in MCOP No.100 of 2023 dated 30.09.2024, wherein, the claimant is seeking for enhancement of compensation.



WEB COPY

2.The case of the claimant is that on 31.10.2022, at about 5.45 p.m., the claimant after completing his work was going back home at Salem-Chennai bye-pass road. At that point of time, the offending vehicle which was a two wheeler, was driven in a rash and negligent manner and it dashed against the claimant. As a result of which, the claimant sustained grievous injuries. The right thigh of the claimant was crushed and it resulted in amputation of the right leg above knee. The claimant took treatment as an inpatient for nearly sixty days. An FIR also came to be registered in Crime No.327 of 2022 against the rider of the two wheeler. It is under these circumstances, the claim petition came to 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 only due to the rash and negligent driving on the part of the offending vehicle.

4.The Tribunal having rendered the above finding, fixed the total compensation at Rs.28,11,400/- under various heads as follows:



WEB COPY



Compensation awarded under the head	Amount (in Rs.)
Pain and Sufferings	1,00,000
Transport Charges	50,000
Extra Nourishment	30,000
Attender Charges	30,000
Damages to clothes	1,000
Loss of Amenities	30,000
Loss of Income	25,70,400
Total	28,11,400

5.The above compensation was directed to be paid along with interest at the rate of 7.5% per annum.

6.Aggrieved by the same, the present appeal has been filed seeking for enhancement of compensation.

7.This Court has carefully considered the submissions made on either side and also the materials available on record and this Court has gone through the Award passed by the Tribunal.

8.The main ground that was urged by the learned counsel for the appellant is that the claimant was a thread spinner. The accident resulted in



WEB COPY

amputation of the right leg above knee. Therefore, there was 100% functional disability and whereas, the Tribunal had only taken 85% as functional disability based on the Disability Certificate issued by the Medical Board. The learned Counsel further submitted that the compensation that has been fixed under the head is also on the lower side and it requires the interference.

9. In the case in hand, the claimant had sustained the following injuries:

Garde IIIC compound both bone fracture right leg middle 3rd and shaft of femur fracture M3rd – D3rd right side and APC type III pelvic injury right side and Judet and Letournel T type acetabulum fracture left side.

10. For the above injuries, the claimant underwent at least two surgeries which resulted in the amputation of the right leg above knee. The claimant was admitted as an inpatient for nearly sixty days.

11. The Medical Board had assessed the permanent disability at 85% as per EX.C1. The Tribunal had fixed the notional monthly income at Rs.12,000/-



WEB COPY

12. It is contended that the claimant suffered 100% functional disability.

However, this Court is inclined to confirm 85% functional disability fixed by the Tribunal. This Court finds that the notional monthly income fixed by the Tribunal is on the lower side. Accordingly the notional monthly income is increased to Rs.18,500/-. The compensation under the head of 'Loss of Income' is calculated as follows:

$$\text{Rs.25,900/- (Rs.18,500/- + Rs.7,400/-) x 12 x 15 x 85/100 = Rs.39,62,700/-}$$

13. This Court is inclined to enhance the compensation under the heads of Pain and Sufferings to Rs.1,75,000/-, Extra Nourishment to Rs.1,00,000/- and Attender Charges to Rs.60,000/-. The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.

14. In the light of the above discussion, the compensation fixed by the Tribunal is modified as follows:



Compensation awarded under the head	Amount (in Rs.)
Pain and Sufferings	1,75,000
Transport Charges	50,000
Extra Nourishment	1,00,000
Attender Charges	60,000
Damages to clothes	1,000
Loss of Amenities	30,000
Loss of Income	39,62,700
Total	43,78,700

15.The Tribunal had exonerated the liability of the 2nd respondent on the ground that the 1st respondent did not possess a valid driving license in this case. No grounds have been raised in the grounds of appeal in this regard and therefore, it is contended by the learned counsel for the 2nd respondent that the Insurance Company cannot be saddled with the liability and it is only the 1st respondent who has to pay the compensation.

16.In the considered view of this Court, the rule of pleadings cannot be strictly applied to motor accident case. The reason for not raising a ground is that, at the time when this appeal was filed, the amended act had come into force in the year 2022 and therefore, the appellant was under the impression



that the pay and recovery principle will not apply. However, subsequently, the

Division Bench of this Court in ***The Branch Manager, ICICI Lombard General Insurance Company Limited, Thanjavur vs. Mariyapushpam and others*** reported in **2026 3 LW 119**, held that even after coming into force and the amendment on 01.04.2022, the principle of pay and recovery can be applied insofar as the third parties are concerned.

17. In the light of the above decision and taking note of the subsequent development in the march of law, this Court is inclined to order for pay and recovery. Accordingly, compensation amount shall be paid by the 2nd respondent and it shall recover the same from the 1st respondent.

18. The compensation awarded by the tribunal at Rs.28,11,400/- is enhanced to Rs.43,78,700/-. The second respondent/insurance company is directed to deposit the enhanced compensation amount of Rs.43,78,700/-, 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 eight weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.15,67,300/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay of 317 days as was ordered by



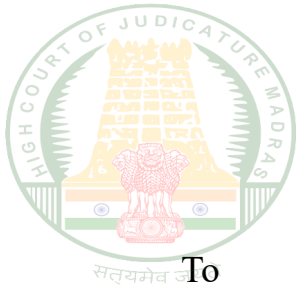
WEB COPY

this Court in C.M.P.No.32530 of 2025, dated 19.06.2026. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

19.This Civil Miscellaneous Appeal is Partly Allowed in the above terms. No Costs.

13.07.2026

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
ssr



WEB COPY

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



WEB COPY



N. ANAND VENKATESH., J

SSR

CMA No.2082 of 2026

13.07.2026