



C.M.A(MD)No.1250 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.02.2024**

CORAM

THE HON'BLE MR.JUSTICE S.SRIMATHY

C.M.A(MD)No.1250 of 2023

and

C.M.P.(MD)No.16569 of 2023

The Branch Manager,
ICICI Lombard General Insurance
Co-operative Limited,
United Arcade, IIIrd Floor,
Annamalai Nagar,
Karur Bye Pass Road, Thillai Nagar,
Tiruchirappalli.

... Appellant

Vs.

1.S.Arivalagan
2.R.Saravanan

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, challenging the fair order passed by the Motor Accident Claims Tribunal / Special Sub Judge Court, Trichirappalli, in M.C.O.P.No.167 of 2018, dated 17.02.2023.

For Appellant : Mr.P.Pethu Rajesh
For R1 : Mr.R.Maheswaran
For R2 : No appearance



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JUDGEMENT

The Civil Miscellaneous Appeal is filed by the Insurance Company.

2. It is a case of injury. The contention of the Insurance Company is that the injured was driving the vehicle carrying three persons in the two-wheeler which is prohibited. Moreover, he is not having license. But the Tribunal failed to fix the contributory negligence on the part of the injured person, who had committed the accident.

3. After hearing the arguments of both sides, this Court is of the considered opinion that contributory negligence ought to be fixed on the part of the injured person. Instead of remitting the case for determining the contributory negligence, this Court is of the considered opinion that the fair and just compensation would be Rs.1,55,000/- as full and final settlement without any interest. Therefore, this Court is modifying the compensation as Rs.1,55,000/-. The Insurance Company shall pay the same within a period of four weeks from the date of receipt of a copy of



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this judgment and the claimant shall withdraw the same.

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4. With the above said observation, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

02.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Tmg

Note: Issue order copy on **05.02.2024.**

To

1. Motor Accident Claims Tribunal /
Special Sub Judge Court, Trichirappalli.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

Tmg

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