



*C.M.A(MD)No.43 of 2024*

WEB COP BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.03.2024**

CORAM

**THE HON'BLE MRS.JUSTICE S.SRIMATHY**

**C.M.A(MD)No.43 of 2024**

**and**

**C.M.P.(MD).No.660 of 2024**

United India Insurance Company Limited,  
Through its Divisional Manager,  
Number 1, Post Office Road,  
Palayamkottai.

... Appellant

Vs.

1.Arockiasamy  
2.Manickavasagam

... Respondent

**PRAYER:** Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicle Act, 1988, against the Award passed in M.C.O.P.No.312 of 2020 dated 20.06.2023, on the file of the Motor Accidents Claims Tribunal / Special Sub Court dealing with MCOP cases, Tirunelveli.

For Appellant : Mr.J.S.Murali  
For R1 : Mr.A.Prasanna Rajadurai

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JUDGMENT

The Insurance Company has filed this Civil Miscellaneous Appeal.

2. It is a case of injury. The facts of the case are that the injured was driving



the two-wheeler, who has over taken a moving vehicle and has hit the offending vehicle, which is coming in the opposite direction. The offending vehicle is insured with the appellant Insurance Company. The contention of the appellant is that the Tribunal ought to have fixed the contributory negligence on the two-wheeler as well, since the accident occurred due to over taking by the two-wheeler. Even the FIR was filed against the two-wheeler of the injured. He also submitted that instead of fixing contributory negligence on the Driver of the two-wheeler, the entire liability is fixed on the Insurance Company, which is erroneous. But the contention of the claimant is that the said FIR filed against him was closed as mistake of fact. After hearing the submissions this Court is of the considered opinion that the fact remains that the two-wheeler had hit the opposite vehicle and both the vehicles are liable for the accident, hence contributory negligence ought to be fixed on the two-wheeler also.

3. For the reasons stated above, this Court is inclined to reduce the compensation amount from Rs.2,26,000/- (Tribunal award) to Rs.1,75,000/-. Therefore, the appellant Insurance Company is directed to deposit Rs.1,25,000/- alone with interest at 7.5% per annum and the 2<sup>nd</sup> respondent herein is directed to deposit Rs.50,000/- with interest at the rate of 7.5% per annum. The appellant and



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the 2<sup>nd</sup> respondent shall also deposit the costs equally. The said deposits shall be made to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the same with accrued interests and costs, less the amount already withdrawn by him, if any, by filing appropriate application before the Tribunal. The Insurance Company shall withdraw the excess amount, if any, without filing any application before the Tribunal.

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

**08.03.2024**

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

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1. The Motor Accidents Claims Tribunal/  
Special Sub Court dealing with MCOP cases,  
Tirunelveli.
- 2.The Section Officer,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**S.SRIMATHY, J.**

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