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CMA No. 2258 of 2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-07-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

**CMA No. 2258 of 2021 & CROS.OBJ NO. 14 OF 2022,
AND
CMP NO. 12513 OF 2021 & CMP NO. 858 OF 2022**

1. M/s.United India Insurance Co. Ltd
Having Its Branch Office At No.5/328-E, Sowkath Ali St
(opp.A.V.H.S. School), Paramakudi, Ramanathapuram Dt 623 707.

2.M/s. United India Insurance Co.Ltd.,
Having Its Divisional Office At No.1171, Muthiah Complex, Mettur
Road, Erode Dt 638 011.

Appellants

Vs

1. K Murugesan
2.P. Balamurugan

Respondents

CROS.OBJ No. 14 of 2022

K.Murugesan

Appellant

Vs



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1. United India Insurance Co. Ltd.,
Having its Branch Office at No.5/328-
E, Sowkath Ali St, (Opp.
A.V.H.S.School), Paramakudi,
Ramanathapuram Dt 623 707.

2. United India Insurance Co Ltd
Having its Divisional office at No.1171,
Muthiah Complex, Mettur Road, Erode
Dt 638 011.

3. P. Balamurugan

Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Sec, 173 of Motor Vehicles Act, praying to set aside the Judgement and decree dated 07.12.2019 made in MCOP No.314 of 2018 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Judge, Erode.

CROS.OBJ No. 14 of 2022

PRAYER:- Cross Appeal filed under Order 41 Rule 22 of Civil Procedure Code, praying to set aside Judgment and Decree dated 07-12-2019 made in MCOP No.314 of 2018 on the file of the Motor Accident Claims Tribunal / Special Subordinate Judge, Erode.



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For Appellants: Mr. S.Arunkumar

For Respondents: Mr.M.Guruprasad For R1

Cross Obj. No. 14 of 2022

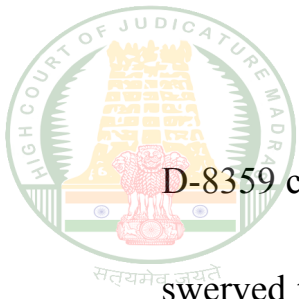
For Cross Objector : Mr. M.Guruprasad

For Respondents: Mr.S.Arun Kumar For R1 & R2

JUDGEMENT

Challenging the impugned award passed by the Motor Accident Claims Tribunal, Special Subordinate Judge, Erode, in MCOP No.314 of 2018, dated 07.12.2019, the appellants/2nd and 3rd respondents insurance company preferred this Civil Miscellaneous Appeal.

2.The case of the 1st respondent/petitioner is that on 27.03.2018 at about 04.45 hours. when the petitioner was riding his two wheeler bearing Regn. No. TN-52 E-7480 in Paramathi to Tiruchengode Main Road, near Nallur Mariamman Kovil, Kabilarmalai privu road from east to west direction, at that time, the 1st respondent/3rd respondent drove the lorry bearing Regn. No. TN-69



D-8359 came in opposite direction in a rash and negligent manner and suddenly swerved towards right side, hit against his two wheeler and caused an accident.

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Due to which, he sustained grievous injuries, for which he underwent treatment in the hospital. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation of Rs.40,00,000/-.

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 rider of the 2nd respondent herein. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.6,23,000/- under various heads and the said compensation was directed to be paid with interest at the rate of 7.5% per annum.

4. The 2nd and 3rd respondents Insurance Company aggrieved by the quantum of compensation fixed by the Tribunal has filed the present appeal before this Court.

5. The learned counsel for appellant argues that at the time of alleged accident, there is a negligence on the part of injured, but it was not taken into



consideration by the tribunal and fixed entire liability upon the owner of lorry as such is illegal and liable to be set aside.

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6. By way of reply, the learned counsel for 1st respondent argues that at the time of accident, the injured driven the two wheeler with care and caution, but the 2nd respondent lorry driver suddenly swerved towards right side, thereby the accident was happened. Hence, there is no negligence on part of injured/1st respondent.

7. Heard and considered rival submissions made by learned counsel for appellants as well as 1st respondent and perused the materials available on record.

8. Considering both side submissions and as per the F.I.R. allegations, the injured himself says that he has dashed against on the rear side of lorry, due to which, he fell down and sustained injuries. So, the accident was not happened as described by the tribunal as if both vehicle came in opposite direction and dashed each other. Therefore, the injured also contributed negligence. Hence, this Court is inclined to fix 25% of contributory negligence on the side of 1st respondent/petitioner. The accident was happened on the day or night, he would



have avoided, even assuming that the lorry suddenly swerved towards right side. Furthermore, the cross-objections filed by the 1st respondent/petitioner is

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also taken into consideration. The learned counsel for Cross Objector argues that the accident was happened in the year 2018, but the tribunal has fixed a sum of Rs.3000/- per percentage of disability and the same is to be enhanced.

Considering his submissions, this Court is inclined to enhance the sum of Rs.3000/- awarded towards per percentage to Rs.7000/- per percentage of disability. On seeing the facts, he has undergone treatment as outpatient for some days in various hospitals. Hence, he was in need of more nourishment.

Considering that, this Court is inclined to enhance the sum awarded towards extra nourishment from Rs.7,000/- to Rs.15,000/-. Considering the fact that during the treatment period, the petitioner required an attender, the attender charges is enhanced from Rs.7,000/- to Rs.15,000/-. The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.



10. Both the Civil Miscellaneous Appeal as well as Cross-Objections tried jointly and in the light of the above discussion, the compensation awarded by the tribunal is modified as follows:

S.No	Compensation awarded under the head	Amount awarded by the tribunal (in Rs.)	Amount (in Rs.)	Amount confirmed or granted or enhanced
1.	Loss of earning during the treatment period	72,000	72,000	confirmed
2.	Transport to hospital	8,000	8,000	confirmed
3.	Extra nourishment	7,000	15,000	enhanced
4.	Attender charges	7,000	15,000	enhanced
5.	Future medical expenses	35,000	35,000	confirmed
6.	Damages for cloths and articles	2,000	2,000	confirmed
7.	Medical expenses	2,59,000	2,59,000	confirmed
8.	Pain and sufferings	80,000	80,000	confirmed
9.	Permanent disability (Rs.7000 x 51%)	1,53,000	3,57,000	enhanced
	Total	6,23,000	8,43,000	
	Less : 25% of contributory negligence		2,10,750	
	Compensated awarded	6,23,000	6,32,250	enhanced

11. The compensation awarded by the tribunal at Rs.6,23,000/- is enhanced to Rs.6,32,250/-. The appellant respondent insurance company is directed to deposit the enhanced compensation, less the amount already



deposited, together with interest at 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 copy of this judgment. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

12. Accordingly, the Civil Miscellaneous Appeal filed by the insurance company in C.M.A.No.2258 of 2021 is disposed of and the Cross Objections filed by the injured petitioner in Cross.Obj No. 14 of 2022 is partly allowed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

07-07-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Motor Accident Claims Tribunal, Special Sub-Judge, Erode.

2. Section Officer, VR Section, Madras High Court.



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T.V.THAMILSELVI J.

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