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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14-08-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA NO. 258 of 2023

and

CMP.No.1930 of 2023

Go Digit General Insurance Co.Ltd.,
Atlantis, Koramangala Industrial Layout,
5th Block, Bengaluru, Karnataka District –
560095.

Appellant(s)

Vs

1.Vasanthi
2.Murugesan
3.Shriram General Insurance company,
No.5, Sachin Plaza, Reddiyur Block,
Salem-636 016.

Respondent(s)

For Appellant(s):

Mr.B.Siva Kollapan

For Respondent(s):

Mr.Amar Dineshbhai Pandiya
for Mr.M.Mohammed Riyaz for R1
M/s.V.Pushpa for R3
For R2 - No appearance



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ORDER

Today, the matter is listed under the caption "for being mentioned", at the instance of the learned counsel for the appellant.

2. Mr.B.Siva Kollapan, learned counsel appearing for the appellant and Mr.Amar Dineshbhai Pandiya, learned counsel for Mr.M.Mohammed Riyaz learned counsel appearing for the 1st respondent and M/s.V.Pushpa learned counsel appearing for the 3rd respondent are present.

3. It is brought to the notice of this Court that some typographical error has been crept in paragraph Nos.5 & 6 of the Judgment dated 17.06.2025. The said paragraph Nos.5 & 6 are to be replaced as follows:

"5. Considering the submissions of the both side counsel and on perusal of records, it reveals that two vehicles were involved in the accident, one is the Motor Cycle Bearing Reg. No. TN 30 BJ 5080, in which claimant as pillion, and another vehicle was the Tanker Lorry Bearing Reg. No. TN 30 AK 5527, which was driven by the driver and it insured with appellant company. Admittedly, the claimant was a pillion rider, which was driven by Murugesan



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and the same was insured with third respondent herein. The rider of the two wheeler dashed against the unknown two wheeler due to which she fell down and lorry ran over the right leg of the claimant. If the driver of the lorry applied the brake with diligence, he might have avoided the accident. Further, there is no evidence adduced on the side of the appellant to prove that the driver of the lorry driven the vehicle with due diligence. As rightly pointed out by the claimant's counsel, even the driver of the lorry was not examined to prove the negligent of the Motorcycle bearing Reg.No.TN30 BJ 5080. As discussed above, the tribunal has rightly fixed 50% liability upon the appellant. Further, the tribunal has fixed only Rs.10,000/- for monthly income of the claimant. As per order 41 Rule 33 of CPC, this Court is empowered to enhance the compensation to render complete justice. Considering the fact that the accident was happened in the year 2020. Hence, this Court is inclined to enhance monthly income Rs.10,000/- to Rs.15,000/-. Accordingly, the

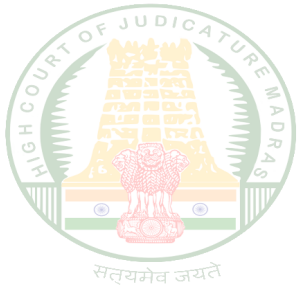


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claimant is entitled to Rs.24,19,200/-
{(15,000+6000)x12x16x60/100}.

S.N o.	Heads	Compensation awarded by the tribunal	Compensation awarded by this Court
1.	Functional disability	Rs.16,12,800/-	Rs.24,19,200/-
2.	Pain and sufferings	Rs.1,00,000/-	Rs.1,00,000/-
3.	Lost of amenities	Rs.1,00,000/-	Rs.1,00,000/-
4.	Medical Bills	Rs.3,49,200/-	Rs.3,49,200/-
5.	Transportation charges	Rs.50,000/-	Rs.50,000/-
6.	Extra nourishment	Rs.50,000/-	Rs.50,000/-
7.	Attender charges	Rs.50,000/-	Rs.50,000/-
8.	For clothes	Rs.1,000/-	Rs.1,000/-
9.	Total	Rs.23,13,000/-	Rs.31,19,400/-

6. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to Rs.31,19,400/-. The appellant herein is directed to deposit the said amount to the extent of 50% and remaining 50% by the 3rd respondent together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, to the credit of MCOP No.400 of 2021, on the



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file of the Motor Accident Claims Tribunal, Special Sub Court II for MCOP Cases Salem., within a period eight weeks from the date of receipt of a copy of this judgement. On such deposit, the claimant is permitted to withdraw the award amount by making formal application before the Tribunal."

4. Registry is directed to incorporate the above paragraph Nos.5 & 6 quoted above and issue fresh order copy to the parties forthwith.

5. In other respects, the order dated 17.06.2025 shall remain unaltered.

14.08.2025

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T.V.THAMILSELVI, J.

ri

CMA NO.258 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-06-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 258 of 2023

AND

CMP NO. 1930 OF 2023

1. Go Digit General Insurance Co -
Ltd
Atlantis, Koramangala Industrial
Layout, 5th Block, Bengaluru,
Karnataka District - 560 095.

Appellant(s)

Vs

1. Vasanthi
W/o. Vadivelu, No. 3/210,
Goundappan Vattam,
Vedugathampatti, Tirumalaigiri,
Salem District - 636 307.

2.Murugesan
S/o. Chinnapaiyan, No. 54/52B,
Morambukadu, Sivathapuram, Salem
District. - 636 307.

3.Shriram General Insurance
Company
No. 5, Sachin Plaza, Reddiyur Block,



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Salem - 636 016.

4.Ramamoorthy
S/o. Rangasamy, No 26/157,
Palaniappa Nagar, Suramangalam,
Salem - 636 005.

Respondent(s)

CMA No. 258 of 2023

PRAYER

To set aside the Decree and Judgement dated 20.10.2022 made in MCOP No.400 of 2021 on the file of the Motor Accident Claims Tribunal, Special Sub Court II for MCOP Cases Salem.

CMA No. 258 of 2023

For Appellant(s): B. Siva Kollapan

For Respondent(s): MR.AMAR D.PANDIYA FOR
MR.M. MOHAMED RIYAZ
FOR R1 R2- NO
APPEARANCE
MS.V.PUSHPA FOR R3 R4 -
NO SUCH ADDRESS FOR
R 1 M/S.V.PUSHPA-
MS/687/1997
T.CHANDRAKALA FOR R3
R-2 MURUGESAN S/o.
Chinnapaiyan, No. 54/52B,
Morambukadu, Sivathapuram,
Salem District. - 636 307. R4 -
NO SUCH ADDRESS PVT.
NOTICE ----- AOS NOT
FILED



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JUDGEMENT

This Civil Miscellaneous Appeal has been filed to set aside the Decree and Judgement dated 20.10.2022 made in MCOP No.400 of 2021 on the file of the Motor Accident Claims Tribunal, Special Sub Court II for MCOP Cases Salem(in short "tribunal").

2.The brief facts of the case:

On 14.12.2020 at about 17-00 Hrs the claimant was Pillion Rider in the Hero Splendor Plus Motor Cycle Bearing Reg. No. TN 30 BJ 5080 on the Thirumalai Bye-Pass To Sidher Kovil Main Road Near Kandhampatti RTO Office, its rider in an Uncontrollable speed without minding the Traffic Rules and Regulations, suddenly Try to overtaking the Tanker Lorry Bearing Reg. No. TN 30 AK 5527 and ignoring the one unknown motor cycle came from opposite direction and dashed against the motorcycle bearing registration No. TN 30 BJ 5080 and fell down on left side on the road. At the time the above said Tanker Lorry ran over the right leg of the claimant and caused the accident. Challenging the award passed by the tribunal, the insurance company preferred this appeal.



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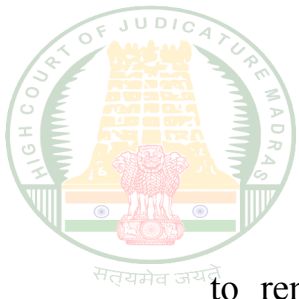
3. The learned counsel for the appellant submits that the FIR, rough sketch, and final report shows that there was no negligence on the part of the driver of the lorry. Further, the entire negligence on the part of the motorcycle rider but the tribunal has erroneously fixed 50% liability on the side of the appellant. Further, the tribunal has failed to consider the Ex.P18/acknowledgment slip of motorcycle in which he pleaded guilty and paid fine before the Magistrate Court, which itself shows that he admitted his negligence but the tribunal erroneously held that appellant liable to pay 50 % of the compensation. Hence, he prays to allow this appeal.

4. The learned counsel for the claimant submits that insurance company has already deposited 50% of the award amount before the tribunal. Further, he submits that at the time of the accident the claimant was fell down from the two wheeler, when the lorry was ran over the right leg of the claimant due to which her leg was amputated. Therefore, there is negligence on the part of the driver of the lorry, tribunal also rightly fixed liability on the driver of the lorry. Further, he submits that while fixing the monthly income the tribunal has fixed only Rs.10,000/- for income of the claimant. Hence, he prays to enhance the compensation.



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5. Considering the submissions of the both side counsel and on perusal of records, it reveals that two vehicles were involved in the accident, one is the Motor Cycle Bearing Reg. No. TN 30 BJ 5080, which was ridding by the claimant and another vehicle was the Tanker Lorry Bearing Reg. No. TN 30 AK 5527, which was driven by the driver and it insured with appellant company. Admittedly, the claimant was a pillion rider, which was driven by Murugesan and the same was insured with third respondent herein. The rider of the two wheeler dashed against the unknown two wheeler due to which he fell down and lorry ran over the right leg of the claimant. If the driver of the lorry applied the brake with diligence, he might have avoided the accident. Further, there is no evidence adduced on the side of the appellant to prove that the driver of the lorry driven the vehicle with due diligence. As rightly pointed out by the claimant's counsel, even the driver of the lorry was not examined to prove the negligent of the claimant and his involvement in the accident. As discussed above, the tribunal has rightly fixed liability upon the appellant. Further, the tribunal has fixed only Rs.10,000/- for monthly income of the claimant. As per order 41 Rule 33 of CPC, this Court is empowered to enhance the compensation



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to render complete justice. Considering the fact that the accident was happened in the year 2020. Hence, this Court is inclined to enhance monthly income Rs.10,000/- to Rs.15,000/-. Accordingly, the claimant is entitled to Rs.24,19,200/- $\{ (15,000 + 6000) \times 12 \times 16 \times 60 / 100 \}$.

S.N o.	Heads	Compensation awarded by the tribunal	Compensation awarded by this Court
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9.	Total	Rs.23,13,000/-	Rs.31,19,400/-

6. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to Rs.31,19,400/-. The appellant herein is directed to deposit the said amount together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, to the credit of MCOP No.400 of 2021, on the file of the Motor Accident Claims



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Tribunal, Special Sub Court II for MCOP Cases Salem., within a period eight weeks from the date of receipt of a copy of this judgement. On such deposit, the claimant is permitted to withdraw the award amount by making formal application before the Tribunal.

7. With the above direction, the Civil Miscellaneous Appeal is partly allowed. No costs.

17-06-2025

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Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No

CMA No. 258 of 2023



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To

1.Vasanthi

W/o. Vadivelu, No. 3/210,
Goundappan Vattam,
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Salem District - 636 307.

2.Murugesan

S/o. Chinnapaiyan, No. 54/52B,
Morambukadu, Sivathapuram, Salem
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No. 5, Sachin Plaza, Reddiyur Block,
Salem - 636 016.

4.Ramamoorthy

S/o. Rangasamy, No 26/157,
Palaniappa Nagar, Suramangalam,
Salem - 636 005.

5. The Section Officer, V.R Section,
High Court, Madras.

6. The Motor Accident Claims
Tribunal, Special Sub Court II for
MCOP Cases Salem



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T.V.THAMILSELVI J.

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AND CMP NO. 1930
OF 2023**

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