



CMA.No.916 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :26.03.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

**CMA No.916 of 2025**

Shakunthala @ Sagunthala

... Appellant

**Vs.**

1.Arthanari  
2. National Insurance Company Limited  
Divisional Office-1, L.R.N Building  
Saradha College Road, Salem-636 007.

... Respondents

**Prayer:** Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to enhance the award in the order dated 12-07-2024 made in MCOP.No.780/2020 on the file of the Motor Accident Claims Tribunal/Special Subordinate Judge No.1, Salem.

For Appellant : Mr.T.S.Arthanareeswaran

For Respondent : Mr.R.Prem Chander for R2  
R1-Notice dispensed with.

**JUDGMENT**

Challenging the award passed by the Motor Accident Claims Tribunal in MCOP.No.780 of 2020, the Civil Miscellaneous Appeal has been filed by the claimant seeking enhancement of the compensation.



CMA.No.916 of 2025

WEB COPY

2. It was the case of the claimant that when she was riding her Honda Activa two-wheeler on 23-02-2020 on the left-hand side portion of the road by following the traffic rules, the tipper lorry insured with the second respondent came in a rash and negligent manner and dashed against the two-wheeler of the claimant from behind. Due to the accident, the claimant suffered grievous injuries and treated in the hospital. Therefore, the claim petition was filed seeking compensation of Rs. 25,00,000/-.

3. The first respondent, owner of the tipper lorry, remained ex-parte and the claim petition was contested by the insurer of the lorry by filing counter.

4. It was stated by the second respondent in the counter that the accident had occurred only due to the negligence on the part of the claimant. It was also stated that the claimant did not possess a valid driving license on the date of accident and hence, the entire negligence shall be fastened on her.

5. The Tribunal, based on the evidence available on record and also the fact that the claimant failed to produce valid driving license,



CMA.No.916 of 2025

fixed 20% negligence on the part of the claimant and 80% negligence on the part of the driver of the tipper lorry. The amount payable was quantified at Rs.1,28,800/- after deducting 20% contributory negligence. Not satisfied with the quantum, the claimant has come before this Court.

6. The learned counsel for the Appellant submitted that mere failure to produce the valid driving license is not a ground to fix contributory negligence on the part of the claimant in the absence of any positive evidence to show that the accident had occurred due to negligence on the part of the claimant. The learned counsel further submitted that the quantum of compensation awarded by the tribunal is very meager.

7. The learned counsel for the Second Respondent has submitted that the claimant failed to produce the valid driving license. In order to prove that the claimant did not possess the valid driving license, the official from RTO office was examined as RW1. He also submitted that based on the evidence of RW1, the tribunal rightly fixed 20% negligence on the part of the claimant. The learned counsel further



CMA.No.916 of 2025

WEB COPY submitted that the claimant suffered only simple injuries and therefore, the amount awarded by the tribunal is excessive.

8. In order to prove the negligence, the claimant examined herself as PW1 and she deposed that the driver of the lorry had driven his vehicle in a rash and negligent manner and dashed against the two-wheeler of the claimant from behind. Her evidence was corroborated by contents of Exhibit P1, FIR which has been filed only against the driver of the tipper lorry. On the side of the respondents, the driver of the lorry has not been examined to prove the negligence on the part of the claimant. The Hon'ble Apex Court in the case of ***Sudhir Kumar Rana Vs Surinder Singh and Others*** reported in ***(2008) 12 SCC 436*** clearly held that mere non-possession of valid driving license that by itself would not amount to negligence on the part of the claimant unless there is a positive evidence to show that the accident had occurred due to his fault. In the case on hand, the evidence of PW1 and the contents of FIR marked as Exhibit P1 establish that the negligence was on the part of the driver of the tipper lorry. However, there is no positive evidence to suggest that the claimant also contributed to the accident. Following the



CMA.No.916 of 2025

WEB COPY law laid down in the above mentioned case, this Court feels that fixation of 20% contributory negligence on the part of the claimant for her failure to produce the valid driving license is not sustainable and the same is set aside.

9. It is seen from Exhibit P6, Discharge Certificate, the claimant suffered isolated fracture in radius left forearm/multiple abrasion and she was in the hospital for 4 days from 24.02. 2020 to 27.02. 2020. The other injuries suffered by her are only simple in nature. Taking into consideration the nature of injuries suffered by the claimant, the tribunal awarded Rs.50,000/- towards pain and suffering and Rs. 30,000/- towards injuries suffered by her. The claimant has not produced any document to show that she suffered disability. It is also seen from the evidence that she is working as a Junior Assistant in a Government school and hence, the injury suffered by her has not interfered with her employment. Taking into consideration all these factors, this Court feels that the amount of Rs.1,61,000/- awarded by the Tribunal is more than sufficient and hence, the claimant has not made out any case to enhance the award amount.



10. In view of the discussions made earlier, the award passed by the Tribunal is modified as follows:-

| Sl<br>•<br>No | Description                            | Amount<br>awarded<br>by<br>Tribunal<br>(Rs) | Amount<br>awarded<br>by this<br>Court<br>(Rs) | Award<br>confirmed<br>or<br>enhanced<br>or granted |
|---------------|----------------------------------------|---------------------------------------------|-----------------------------------------------|----------------------------------------------------|
| 1.            | Pain and sufferings                    | 50,000/-                                    | 50,000/-                                      | Confirmed                                          |
| 2.            | Injury suffered by the claimant        | 30,000/-                                    | 30,000/-                                      | Confirmed                                          |
| 3.            | Transportation charges                 | 20,000/-                                    | 20,000/-                                      | Confirmed                                          |
| 3.            | Nutritional expenses                   | 20,000/-                                    | 20,000/-                                      | Confirmed                                          |
| 5.            | Attendant charges                      | 20,000/-                                    | 20,000/-                                      | Confirmed                                          |
| 6.            | Damage to clothes                      | 1,000/-                                     | 1,000/-                                       | Confirmed                                          |
| 7             | Loss of amenities                      | 20,000/-                                    | 20,000                                        | Confirmed                                          |
|               | <b>Total</b>                           | <b>1,61,000/-</b>                           | <b>1,61,000/-</b>                             | <b>Nil</b>                                         |
|               | <b>Less:20%contributory negligence</b> | <b>32,200/-</b>                             | <b>-</b>                                      | <b>Set aside</b>                                   |
|               | <b>Net compensation</b>                | <b>1,28,800/-</b>                           | <b>1,61,000/-</b>                             | <b>Enhanced by Rs.32,200/-</b>                     |



CMA.No.916 of 2025

WEB COPY

11. With the above modifications, the civil miscellaneous appeal is partly allowed by setting aside 20% of contributory negligence fixed by the tribunal on the claimant. Accordingly, the claimant is entitled to entire compensation of Rs. 1,61,000/- without any deduction towards contributory negligence. The 2<sup>nd</sup> respondent/insurance company is directed to deposit the award amount, along with interests as ordered by Tribunal and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of copy of this judgment. On such deposit, the appellant/claimant is permitted to withdraw the same along with interest and costs, less the amount if any, already withdrawn by filing a formal application before the Tribunal . No costs.

**26.03.2025**

Index:Yes/No  
Internet:Yes/No  
nr



CMA.No.916 of 2025

WEB COPY **To**

1. Motor Accidents Claims Tribunal  
Special Subordinate Judge No.1, Salem.

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



WEB COPY



CMA.No.916 of 2025

**S.SOUNTCHAR, J.**

nr

**CMA No.916 of 2025**

**26.03.2025**