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C.M.A.No.1674 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2025

CORAM :

THE HON'BLE MRS. JUSTICE K.GOVINDARAJAN THILAKAVADI

**C.M.A.No.1674 of 2022
and C.M.P.No.12380 of 2022**

United India Insurance
Company Ltd.,
P.R.Sundaram Street,
Dharmapuri Town,
Dharmapuri Taluka and
District.

... Appellants

Versus

1.Velu
2.Murugesan

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the order made in M.C.O.P.No.1807 of 2014, dated 07.01.2021, on the file of the Motor Accident Claims Tribunal (Special District Judge) at Dharmapuri.

For Appellants : Mr.R.Sree Vidhya

For Respondents : Mr.M.Sivakaumar
for R1



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JUDGMENT

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This appeal is directed as against the award of the M.C.O.P.No.1807 of 2014, dated 07.01.2021, on the file of the Motor Accident Claims Tribunal (Special District Judge) at Dharmapuri.

2.Briefly stated, on 07.03.2011 when the 1st respondent was proceeding in the TVS Star City Motor cycle bearing Reg. No. 29 AH 4722 the auto rickshaw bearing Reg. No.TN 29 AA 5564 belonging to the 2nd respondent, insured with the appellant/Insurance Company which came in the opposite direction in a rash and negligent manner dashed against the petitioner. Due to which, the 1st respondent sustained grievous injuries on both knees, right foot and left hand fingers and he was admitted in the Government Dharmapuri Medical College Hospital. He could not walk normally. The 1st respondent was aged about 42 and was earning a sum of Rs.10,000/- per month by selling fish.

3.On the aforesaid grounds, the 1st respondent filed a claim petition before the Claims Tribunal claiming compensation for the injuries sustained by him. He claimed various amounts under different heads and in all, claimed a total sum of Rs.10,00,000/- as compensation. His claim



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was opposed by the appellant/Insurance Company. The learned Tribunal, after trying the issues partly allowed the claim of the 1st respondent and awarded a sum of Rs.4,98,000/- as compensation.

4.The learned counsel for the appellant/Insurance Company submitted that at the time of the accident, the 1st respondent was in a drunken state and had no control over his Two Wheeler, which resulted in dashing of the vehicles. Therefore, the 1st respondent is solely responsible for the alleged accident. Such being the case, the Tribunal had erred in fixing the negligence on the part of the 1st respondent only to an extent of 25% and 75% on the part of the second respondent. When the duty Doctor who was examined as (R.W.1) clearly deposed that the 1st respondent was in an intoxicated state at the time of accident, which the Tribunal has failed to appreciate. He further submitted that the Tribunal failed to consider that the findings of the Criminal Court is not binding on the Civil Proceedings. Therefore, the Tribunal has failed to appreciate the fact that the acquittal of the 1st respondent is insufficient for fixing the negligence on the part of the 1st Respondent to a lesser extent, when the evidence on record clearly establishes that the 1st respondent was primarily responsible for the accident. Therefore, the findings rendered by the Tribunal while passing the award is liable to be



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interfered with. Hence, he prayed for setting aside the award of the Tribunal.

5. On perusal of the impugned order, it is seen that the Tribunal placing reliance on the proposition laid down in the judgment reported in **2014(1) TNMAC 295** has held that in each case evidence must be assessed applying basic standard proof, and that the respondent failed to prove that the claimant was under the influence of alcohol at the time of accident. The said findings of the Tribunal found to be correct.

6. Now, the question arises as to whether the award passed by the Tribunal requires any interference by this Court. The compensation awarded by the learned Tribunal under various heads are extracted hereunder:

S.No	Description	Amount awarded by Tribunal (Rs.)
1.	Disability	4,53,600
2.	Pain and Suffering	30,000
3.	Extra Nourishment Expenses	25,000
4.	Attender Charges	15,000
5	Loss of amenities	50,000



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6	Medical Expenses	10,200
7.	Transport Expenses	15,000
	Total	Rs.5,98,800/-

The compensation is arrived as Rs.5,98,800/- and after deducting 25% towards contributory negligence on the 1st respondent, the 1st respondent is entitled to get only Rs.4,49,100/- being 75% of the total award.

7.Considering the facts and circumstances of the case, the amount of compensation awarded by the learned Tribunal found to be excessive. Hence, the compensation awarded by the Tribunal, under various heads, is modified by this Court as follows:

S.No	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)
1.	Disability	4,53,600	3,52,800
2.	Pain and Suffering	30,000	30,000
3.	Extra Nourishment Expenses	25,000	10,000
4.	Attender Charges	15,000	10,000
5.	Loss of amenities	50,000	25,000



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6.	Medical Expenses	10,200	10,200
7.	Transport Expenses	15,000	10,000
	Total	5,98,800	4,48,000
	After 25% deduction of Contributory Negligence	4,49,100	3,36,000

8. In the result, the present appeal is partly allowed. No Cost.

(i)The Appellant/Insurance is directed to pay the above said compensation amount now determined by this Court to the 1st respondent along with interest and costs, less the amount already deposited, if any, within a period of eight (8) weeks from the date of receipt of copy of this judgment.

(ii)The appellant/Insurance Company is at liberty to withdraw the excess amount, if deposited by them, over and above the compensation awarded by this Court.

(iii)On such deposit, the 1st respondent/Claimant is permitted to withdraw the award amount after filling a proper petition for withdraw. Consequently, connected miscellaneous petition is closed.

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To:

- 1.The Special District Judge,
Motor Vehicle Accident Tribunal,
Dharmapuri.
- 2.The Section Officer,
VR Section, High Court, Madras.

K.GOVINDARAJAN THILAKAVADI,J.

vsn



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