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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2025

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THE HONOURABLE MRS. JUSTICE R.KALAIMATHI

**CMA.NOS.2635, 2246 and 516 of 2025
&
CMP.Nos.18996 of 2025 &3735 of 2025**

CMA.No.2635 of 2025

Santhosh ... Appellant in CMA.No.2635 / 2025

Vs

S. Kumaran

2. United India Insurance Co.Ltd.,
represented by its Manager
No.24, Whites Road, Chennai-14.

3. Yahiya Basha

4. New India Assurance Co. Ltd.,
represented by its Manager,
BMS Complex, No.348/1,
Ground Floor, Saibaba Nagar,
Vaniyambadi Main Road,
Tirupattur 635 601

... Respondents in CMA.No.2635 / 2025

CMA.No.2246 of 2025

M/s.United India Insurance Co.Ltd.,
represented by its Manager,
Office No.24,
Whites Road, Chennai-14.

.. Appellant in C.M.A.No.2246 of 2025

Vs

1. Santhosh

2. S. Kumaran

3. Yahiya Basha

4. M/s.New India Assurance Co.Ltd.,
represented by its Manager BMS Complex,
No.348/1, Ground Floor,
Sai Baba Nagar, Vaniyambadi Main Road,
Tirupattur 635 601.

.. Respondents in C.M.A.No.2246 of 2025



CMA.No.516 of 2025

The New India Assurance Co. Ltd.,
represented by its Manager,
BMS Complex, No.348/1,
Ground Floor, Sai Baba Nagar,
Vaniyambadi Main Road,
Tirupattur 635 601

.. Appellant in C.M.A.No.516 of 2025

Vs

1. Santhosh
2. S.Kumaran
3. United India Insurance Co.Ltd.,
represented by its Manager,
No.24, Whites Road, Chennai-14.
4. Yahiya Basha

.. Respondents in CMA.No.516 of 2025

Common Prayer: Civil Miscellaneous Appeal filed against the Award dated 21.06.2023 made in MCOP.No.533 of 2019 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Krishnagiri.

CMA.NO.2635 of 2025

For Appellant : Mr. D. Ramesh Kumar

For Respondents : Mr.S.P. Yuvaraj for R1
Mr.S.Arunkumar for R2

CMA.NO. 2246 of 2025

For Appellant : Mr.S.Arun Kumar

For Respondents : Mr.D.Ramesh Kumar for R1
Mr.S.P.Yuvaraj for R2
Mr.S.C.Bhuvanasundari for R4

CMA.No. 516 of 2025

For Appellant : Mr.C.Bhuvanasundari

For Respondents : Mr.D. Ramesh Kumar for R1
Mr.S.P. Yuvaraj for R2
Mr.S.Arunkumar for R3
R-4 notice dispensed with



COMMON JUDGMENT

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CMA.Nos.2635 of 2025, is preferred by the claimant herein against the Award dtd 21.06.2023 passed in MCOP.No.533 of 2019 on the file of the Special Sub Cort, (to deal with MCOP Cases), Krishnagiri for enhancement of compensation.

2. CMA.No.516 of 2025 is preferred by the 4th respondent /New India Assurance Company Limited herein against the Award dated 21.06.2023 passed in MCOP.No.533 of 2019 on the file of the Special Sub Court, (to deal with MCOP Cases), Krishnagiri as regards the liability issue.

3. CMA.No.2246 of 2025 was preferred by the 2nd respondent Insurance Company (Insurer of Motor Cycle) against the Award dated 21.06.2023 passed in MCOP.No.533 of 2019 on the file of the Special Sub Court, (to deal with MCOP Cases), Krishnagiri on the liability issue.

4. Parties are indicated herein as per their litigative status and ranking before the Tribunal.

5. Case of the claimant is that on 10.08.2018 at about 18.15 hours, while the petitioner was travelling as a pillion rider in a Motor Cycle bearing Regn.No.TN-24-R-9559, driven by one Sandhanapandiyan along



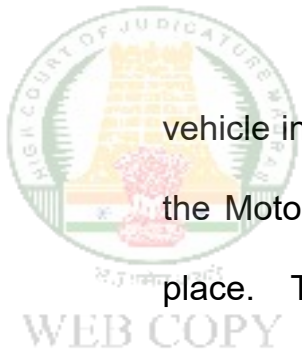
Kariyamangalam to Agaram Road and at the point of Seegalapalli Bus Stop curve, an Eicher Vehicle bearing Regn.No.TN-24-L 0444 which belongs to the 3rd respondent and insured with the 4th respondent came from the opposite direction in a rash and negligent manner, dashed against the two wheeler and caused the accident. Due to the said impact, the claimant sustained severe injuries. The accident took place due to the negligence of the driver of the Eicher Vehicle.

6. The owner of the Eicher Lorry / 3rd respondent despite receipt of notice neither appeared nor entered appearance through counsel.

7. On behalf of insurer of Motor Cycle, it is stated that age, occupation, income, period of treatment, disability details are to be proved by the claimant. The accident took place only due to the rash and negligent driving of the Eicher Lorry. The 2nd respondent is not liable to pay any compensation to the claimant.

8. The details of counter of the 4th respondent is stated in brief:

The age, occupation, income, period of treatment and disability details are to be proved by the claimant. The manner of accident stated by the claimant is denied. The rider of the 1st respondent vehicle was minor at the time of accident. The rider of the 1st respondent vehicle was not in a position to drive the gear vehicle and hit against the 3rd respondent vehicle which came in the opposite direction. The driver of the 3rd respondent, while driving the



vehicle in the curve blew horn. The rider of the 1st respondent vehicle violated the Motor Vehicle Rules and due to his negligence alone, the accident took place. The insurer of the Eicher Lorry/4th respondent is not liable to pay compensation to the claimant herein.

9. At trial, to substantiate the claim details, on the claimant side, two witnesses were examined and thirteen documents were marked. On the 2nd and 4th respondents side, three witnesses were examined and four documents were marked. Ex.C.1 is the Disability Certificate issued by the Medical Board.

10. PW1 is the father of the claimant. Admittedly he is not an ocular witness. One Vallarasu has been examined as PW2 to speak about the accident. It is his evidence that on 10.08.2018, at about 6.15 hours, while he was proceeding in a Motor Cycle, from Kariyamangalam to Mootur, near the Seegalapalli Bus Stop curve, he saw a Two Wheeler (Splendor), wherein, two persons were travelling and from the opposite side, an Eicher Tempo Lorry came in a high speed, as well as, in a rash and negligent manner and hit upon the above said Two Wheeler and due to the said accident, both the rider and the pillion sustained serious injuries. During the cross examination of PW2, he would reiterate that as the lorry came in a high speed and due to the negligent driving of the driver of Eicher Lorry, the accident had occurred. PW2 would depose that the rider of the two wheeler rode the vehicle in a slow speed.

11. On the respondent side, no ocular witness was examined. Therefore,



based on the testimony of PW2 (ocular witness), it has to be decided who drove the vehicle negligently. It is deducible from the evidence of PW2 that the claimant in his two wheeler was proceeding towards Agaram and PW2 was also riding motor cycle behind the said two wheeler and at Seegalapalli Bus Stop curve, the Eicher Lorry came in a rash and negligent manner and hit upon the two wheeler. The accident occurred at a curve place.

12. As per Ex.P.7 and Ex.P.8-MVI report, the right side rear wheel mud guard of the Eicher Lorry was damaged. In respect of the two wheeler, on the front right hand side indicator, right side bumper and right side rear brake lever was damaged. Apart from that, the abovesaid reports along with the evidence of PW2 would explicate that the Lorry went to its right side in the curve and the 3rd respondent driver was totally at fault. It is a common knowledge that in the curve, the driver has to negotiate the vehicle slowly. Had the driver of the 3rd respondent slowly negotiated the curve, the accident could have been definitely averted. Hence, the entire liability is fastened upon the 3rd respondent.

13. From the evidence of PW2, it is made clear that the rider of the two wheeler was not at fault. Only the driver of the Eicher Lorry drove his vehicle in a rash and negligent manner and hit upon the two wheeler. But the Tribunal has held that both the rider of the two wheeler and the driver of the Eicher Lorry equally drove their vehicles in a rash and negligent manner and hence, the same is incorrect finding and perverse, therefore, the same is



liable to be set aside.

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14. It is the evidence of RW2 - Head Constable of Nagarasampatti Police Station that the charge sheet was filed against the driver of Eicher Lorry and the driver of the 3rd respondent Eicher Lorry pleaded guilty and paid the fine before the concerned Judicial Magistrate Court as per Ex.X.3 -fine receipt copy. As per the evidence of PW2, it is only because of the negligent driving of driver of Eicher Lorry, the accident occurred and therefore, the owner and insurer of the erred vehicle namely, 3rd and 4th respondent respectively are liable to pay compensation to the claimant herein.

15. It has come on record through the evidence of PW1- the father of the claimant herein that on account of the accident, his son underwent surgery and his right hand above elbow was amputated on 11.08.2018 followed by debridement done on 13.08.2018. He was referred to the District Medical Board for assessment of disability and the Medical Board assessed the disability as 91%. The Tribunal fixed his functional disability at 75%. The father of the claimant has not stated about the educational qualification of his son.

16. As per the medical records, the claimant was 16 years of age at the relevant point of time. The claimant on account of the accident, lost his right hand and he cannot do any work and activities effectively. Deliberating about the difficulties being faced by the claimant, the Tribunal has invoked multiplier

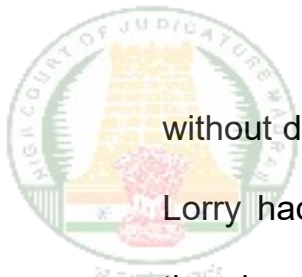


method for computing loss of future income. Of course, the claimant was at liberty to continue his education, but he would find it difficult to do any work without right hand. In consideration of the above said details, the monthly income of the claimant is fixed at Rs.9000/- per month. For computing the loss of earning capacity, the following formula emerges:

$$\text{Rs.9000} \times 12 \times 18 \times 75\% = \text{Rs.14,58,000/-}$$

17. Pain and sufferings includes mental and physical agony, frustration and disappointment towards life. Since the claimant being an Amputee at the age of 16 years, for pain and sufferings, a sum of Rs.50,000/- is granted in addition to the amount already granted by the Tribunal. For attender charges, a sum of Rs.10,000/- is granted in addition to the amount already granted by the tribunal.

18. On behalf of the 4th respondent, it is contended that the driver of the 3rd respondent vehicle was not holding any driving licence to drive the vehicle of the 3rd respondent at the relevant point of time and the 4th respondent is not liable to indemnify the 3rd respondent. To that effect, staff of RDO Krishnagiri has been examined as RW1. Ex.P.7 is the copy of the MVI report of Eicher Lorry, wherein, in column No.7, 'particulars of driving licence', it is mentioned as 'not produced' by the driver Karunakaran. Notice was issued to the concerned driver for production of the driving licence of the above said driver as per Ex.R.2 - copy of the notice. In this regard, RW3 has spoken about the fact that the driver of the Eicher Lorry drove the vehicle



without driving licence. He would further depose that the owner of the Eicher Lorry had allowed Karunakaran to drive the vehicle without driving licence, thereby violated the policy conditions. The date of accident is 10.08.2018. As per Ex.R.1 Insurance Policy, the policy period is from 03.02.2018 to 02.02.2019.

19. In such circumstances, it is relevant to refer to the observations made by the Honourable Supreme Court in the case of **National Insurance Co. Ltd. Vs. Swaran Singh and Ors. (2004ACJ1)**, wherein, It has been held that the Insurance Company has to satisfy the decree at the first instance and later recover the awarded amount from the owner or driver of the vehicle. In the light of the judgment cited supra, the 4th respondent/New India Insurance Co. Ltd./Insurer of the Eicher vehicle is liable to pay the compensation at the first instance and recover the same at a later point of time from the 3rd respondent/owner of the Eicher vehicle.

20. In consideration of the injuries suffered by the claimant and age of the claimant, a sum of Rs.1,00,000/- is granted for loss of marital prospects. As regards the other heads, the amounts awarded by the Tribunal appears to be reasonable. Hence, it does not warrant any interference by this Court.

21. The amounts awarded by this Court as mentioned supra, after rework are tabulated hereunder:



	Heads	Tribunal	High Court	
1	Towards loss of earning capacity	Rs.11,34,000	Rs.14,58,000	enhanced
2	towards pain and sufferings	Rs. 75,000	Rs.1,25,000	enhanced
3	Towards medical expenses	Rs. 3,13,200	Rs.3,13,200	confirmed
4	For transport expenses	Rs. 16,000	Rs. 16,000	Confirmed
5	For Extra Nourishment	Rs. 15,000	Rs. 15,000	Confirmed
6	For damage to clothes	Rs. 1,800	Rs. 1,800	Confirmed
7	For attender charges	Rs. 5,000	Rs. 15 000	Enhanced
8	For loss of amenities	Rs.2,00,000	Rs.2,00,000	Confirmed
9	For future medical expenses	Rs. 50,000	Rs. 50,000	Confirmed
10	For loss of marital prospects	---	Rs.1,00,000	Granted
	Total	Rs.18,10,000	22,94,000	enhanced

22.Thus, this Court awards Rs.22,94,000/- towards compensation for the claimant along with interest at the rate of 7.5% per annum from the date of petition till the date of realisation.

23. In the result,

- CMA.No.516 of 2025 filed by 4th respondent/New India Assurance Company Limited is dismissed. No costs.
- CMA.No.2246 of 2025 filed by the 2nd respondent/United India Insurance Company/Insurer of Motor Cycle is allowed. No costs.
- CMA.No.2635 of 2025 filed by the claimant is partly allowed. No costs.



- The compensation awarded by the Tribunal is enhanced from **Rs.18,10,000/-** to **Rs.22,94,000/-** along with interest at the rate of 7.5% per annum from the date of petition till the date of realisation.
- Since, the entire liability is fastened upon the 3rd respondent/owner of Eicher vehicle, It is ordered that the 4th respondent/insurer of the Eicher vehicle shall deposit the enhanced compensation determined by this Court of **Rs.22,94,000/-** along with interest at the rate of 7.5% per annum from the date of petition till realisation to the credit of MCOP No.533 of 2019 within a period of eight weeks from the date of receipt of copy of judgement, (excluding the period of default, if any) less the amount, if any already deposited, within a period of eight weeks from the date of receipt of a copy of this judgment at the first instance and later recover the same from 3rd respondent/owner of the Eicher vehicle.
- On such deposit, the claimant is at liberty to withdraw the award amount along with interest and costs, after adjusting the amount, if any already withdrawn, by filing appropriate application before the Tribunal.
- The claimant is directed to pay the court fee for the enhanced compensation amount, if required. The Tribunal shall disburse the enhanced amount upon production of the certified copy showing proof of payment of court fee by the claimants/appellants.

Consequently, the connected miscellaneous petitions are closed.

27.11.2025

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Index:yes/no
Internet:yes/no



R.KALAIMATHI, J.

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To
The Motor Accident Claims Tribunal,
Special Subordinate Judge, Krishnagiri.

CMA.NOS.2635, 2246 and 516 of 2025

**&
CMP.Nos.18996 of 2025 &3735 of 2025**

27.11.2025