



C.M.A.No.1560 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2025

CORAM:

THE HONOURABLE **Mrs. JUSTICE R.KALAIMATHI**

C.M.A.No.1560 of 2021

V.Sangeeth

... Appellant

vs.

1.S.Sathish Kumar

2.National Insurance Company Limited,

74A, Paramathi Road, Namakkal.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, against the award passed in M.C.O.P.No.1366 of 2016 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate Court, Namakkal dated 08.05.2019.

For appellant : Mr.R.Nalliyappan

For R1 : No Appearance

For R2 : Mr.S.Arunkumar



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J U D G M E N T

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This Civil Miscellaneous Appeal has been preferred by the claimant against the Award dated 08.05.2019 made in M.C.O.P.No.1366 of 2016 passed by the Motor Accident Claims Tribunal /Chief Judicial Magistrate Court, Namakkal for enhancement of compensation.

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

3. The case of the claimant is that on 05.06.2016 at about 12.00 noon, while the claimant was riding his two wheeler bearing Reg.No.TN.77F 6501 along with his cousin brother, proceeding along Attur Main Roadthe at the part of Pallakadu Bus stop near the residence of Athimoolam house, rider of two wheeler bearing Reg.No.TN.77F.0874 came in a rash and negligent manner from the opposite side and hit upon the above said two wheeler. Due to the said impact, he sustained serious injuries. As the accident occurred due to the rash and negligent driving of the rider of the two wheeler, the owner and insurer of the said two wheeler, namely the first respondent and second respondent are jointly and severally liable to pay compensation to the claimant herein.



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4. Despite the receipt of notice, the first respondent neither appeared nor entered appearance through his counsel.

5. Counter details of the Second Respondent is stated in brief:

The manner of the accident as stated in the claim petition is incorrect. A complaint was lodged belatedly, after a day of occurrence. The accident register of the claimant is not marked. The claimant fell down from the two wheeler and sustained injuries. The amounts claimed under various heads are excessive. Hence, the claim petition is liable to be dismissed.

6. At trial, to substantiate the details of the claim petition, on the claimant's side, two witnesses have been examined and twelve documents have been marked. Accident Register (true copy) is Ex.P.2. Disability Certificate is Ex.P12. On the second respondent's side, one witness has been examined and one document has been marked.

7. The Tribunal, upon consideration of oral and documentary evidence and after hearing the arguments advanced by either side, held that due to the rash and negligent driving of the rider of the first respondent, accident occurred and fastened liability on the owner of the vehicle namely, first

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respondent. The Tribunal also held that as the first respondent did not possess valid driving license at the relevant point of time and the said details have been proved by the second respondent, the Tribunal ordered to pay the compensation of Rs.1,27,730/- with interest at the rate of 7.5% p.a.from the date of filing claim petition by the second respondent at the first instance, and to recover the same from the first respondent at a later point of time.

8. From the evidence of P.W.1, it is deducible that on 05.06.2016 at about 12.00 noon, while riding his two wheeler bearing Reg.No.TN.77L 6501 with his cousin brother as pillion rider, the claimant was proceeding Attur Main Road. On perusal of the treatment records namely, Ex.P.2 & Ex.P.3, (Accident Register and Wound Certificate), it is seen that on 05.06.2006 at about 1.15 p.m., the claimant was admitted in Kovai Ganga Hospital, as an inpatient till 08.06.2016. The Medical Officer of Coimbatore. Ganga Hospital, Dr.Madhuperiyasamy has been examined as P.W.2. It is the evidence of P.W.2 that the big toe of the right foot of the claimant was amputated and he sustained laceration measuring 10x4cm on the right foot and he underwent surgery for the same.

9. P.W.1 would state that he was working as a Marine Engineer at Chennai and earning a sum of Rs.50,000/- p.m. However, no document

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was filed to prove his educational qualification or avocation. The date of accident is 05.06.2016 and the monthly income of the claimant is safely fixed at Rs.14,000/- per month. The Medical Board fixed the disability of the claimant at 10%.

10. In consideration of the injuries sustained by the claimant on account of the accident and the treatment given to him, an amount of Rs.42,000/- is granted for loss of income during treatment period. The functional disability of the claimant is fixed at 10% and in consideration of the above said details, Rs.5,000/- per percentage is granted (Rs.10 x 5000 = Rs.50,000/-). For attender charges, a sum of Rs.10,000/- is granted. For loss of amenities, in consideration of the injuries sustained by the claimant a sum of Rs.15,000/- is granted.

11. It was the contention of the second respondent that at the relevant point of time, the rider of the first respondent's two wheeler did not possess valid driving license and therefore, the second respondent is not liable to pay compensation to the claimant herein. In order to substantiate the said details, a certificate to the effect that the first respondent did not possess valid driving license was marked through RW1, who was examined to that effect. As the insurance policy was in force at the relevant point of time, the

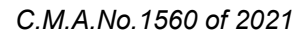


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Tribunal has rightly ordered that compensation be paid by the Insurance company at the first instance, and to recover the same from the first respondent at the relevant point of time. This portion of the order of the Tribunal does not suffer from any infirmity or perversity.

12. As regards the other heads, the amounts granted by the Tribunal appear to be reasonable and acceptable, and it does not warrant any interference by this Court. The compensation awarded as mentioned supra is reworked and tabulated as given hereunder:

Sl.No.	Description	Amount Awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced
1	For partial permanent disability	30,000/-	50,000/-	Enhanced
2	For loss of income during the treatment period	10,000/-	42,000/-	Enhanced
3	For attendant charges	-	10,000/-	Granted
4	For loss of amenities	-	15,000/-	Granted
5	For transport expenses	5,000/-	5,000/-	Confirmed
6	For extra nourishment	10,000/-	10,000/-	Confirmed
7	For Medical expenses	42,730/-	42,730/-	Confirmed
8	For Pain and sufferings	30,000/-	30,000/-	Confirmed

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within a period of six weeks from the date of receipt of a copy of this Judgment, at the first instance and later recover the same from the 1st respondent / Owner of the insured vehicle.

R.KALAIMATHI,J.

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(iv) On such deposit being made, the appellant / claimant is permitted to withdraw the amount now determined by this Court along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal.

(v) The appellant / claimant is directed to pay the Court fee for the enhanced compensation amount, if required.

(vi) The Tribunal below shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimant.

07.10.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

The (Chief Judicial Magistrate Court),
Namakkal.

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