



C.M.A.No.1002 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 17.04.2025

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

C.M.A. No.1002 of 2025

and

C.M.P. No.8326 of 2025

The Manager,
United India Insurance Company Ltd.,
Motor T.P.Hub, No.43/397A,
Annai Indira Gandhi Street,
Rajajipuram Part-II,
Tiruvallur – 602001.

... Appellant

Vs.

1.V.Naveendharan

2.S.Gomathi

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 31.07.2024 made in M.C.O.P.No.115 of 2021 on the file of the Motor Accident Claims Tribunal No.II / Special Sub Court to deal with MCOP case, Tiruvallur.



C.M.A.No.1002 of 2025

WEB COPY

For Appellant : Mr. D. Bhaskaran.

For Respondents : Mr. M. Sivakumar for R1.

J U D G M E N T

(Delivered by Dr. A.D. Maria Clete, J)

This Civil Miscellaneous Appeal challenges the award dated 31.07.2024 in M.C.O.P. No.115 of 2021 by the Motor Accident Claims Tribunal No.II, Tiruvallur, awarding Rs.1,04,54,000/- to the first respondent/claimant for injuries sustained in a road accident on 04.12.2019.

2. The first respondent, aged 27 and employed as an Imaging Associate, suffered multiple injuries while riding pillion on a motorbike bearing Reg.No.TN 73 F 2557, which collided with a sewage lorry bearing Reg.No.TN 07 U 7069 that made a sudden, unindicated turn. He received prolonged treatment at three hospitals and was left with 95% permanent disability, as certified by the District Medical Board. The Tribunal held the insurer liable and awarded compensation accordingly.



C.M.A.No.1002 of 2025

WEB COPY

3. The Insurance Company denied liability, attributing negligence to the motorbike rider for not maintaining 10 meters distance, ignoring the lorry's turn signal, and not wearing a helmet or holding a valid licence. It claimed contributory negligence and disclaimed liability.

4. The lorry owner (second respondent) remained ex parte before the Tribunal.

5. The first respondent examined himself and one Jayasingh as witnesses (PW1 and PW2), marking Exs.P1 to P14; no evidence was adduced by the appellant. The Disability Certificate was marked as Ex.C1.

6. The Tribunal found the lorry driver negligent and awarded Rs.1,04,54,000/-, directing the insurer to pay. This appeal challenges that award.

7. We heard the parties and examined the record.



C.M.A.No.1002 of 2025

8. The appellant raised several grounds: the negligence of the rider was overlooked; income of Rs.30,000/- was fixed without sufficient proof; the 95% disability finding was excessive; various heads of compensation were inflated; and policy violation warranted pay and recovery.

9. In response, the first respondent's counsel submitted that the lorry's negligence was clearly established, the award was based on evidence, and no interference was required. The appeal deserves dismissal.

10. Based on Ex.P1 (FIR) and PW1's evidence, the Tribunal rightly held the lorry driver negligent. The insurer offered no substantive rebuttal, and mere absence of helmet or licence does not prove contributory negligence without causal link.

11. While the Tribunal fixed monthly income at Rs.30,000/- based on PW2 and Ex.P13, the evidence is insufficient. A conservative estimate of Rs.20,000/- with 40% future prospects is adopted, considering private employment without job security.



12. The claimant is wheelchair-bound with 95% disability, and Ex.C1 supports his loss of earning capacity. The Tribunal correctly applied the multiplier method. Recomputing, the loss of earning is: $\text{Rs.}28,000 \times 12 \times 17 \times 95\% = \text{Rs.}54,26,400/-$. Since no amount was awarded for future medical expenses, Rs.3,50,000/- is granted. Attender charges are enhanced from Rs.21,500/- to Rs.4,50,000/-. Other heads of compensation are just and do not warrant interference.

13. Consequently, the total compensation amount is reduced from Rs.1,04,53,500/- to Rs.79,37,400/- and the revised compensation is as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1	Loss of functional disability	Rs.8,721,000	Rs.5,426,400	Reduced
2	Pain & Sufferings	Rs.500,000	Rs.500,000	Confirmed
3	Extra nourishment	Rs.30,000	Rs.30,000	Confirmed
4	Medical	Rs.606,000	Rs.606,000	Confirmed



S.N	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
0	expenses			
5	Future Medical Expenses	---	Rs.350,000	Granted
6	Attender Charges	Rs.21,500	Rs.450,000	Enhanced
7	Transport Expenses	Rs.50,000	Rs.50,000	Confirmed
8	Loss of amenities	Rs.25,000	Rs.25,000	Confirmed
9	Loss of matrimonial aspects	Rs.500,000	Rs.500,000	Confirmed
	Total	Rs.10,453,500	Rs.7,937,400	Reduced

14. In the result, the Civil Miscellaneous Appeal filed by the appellant is disposed of and the appellant is directed to deposit the award amount now determined by this Court, together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit (less the default period, if any) along with interest and costs, if not already deposited, within a period of four



C.M.A.No.1002 of 2025

weeks from the date of receipt of a copy of this Judgment and withdraw the excessive amount deposited if any. On such deposit, the first respondent is permitted to withdraw the award amount along with proportionate interest and costs, less the amount if any, already withdrawn. No costs. Consequently, the connected miscellaneous petition is closed.

(R.S.K., J) (A.D.M.C., J)

17.04.2025

ay

Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation: Yes / No

To

1.The Motor Accident Claims Tribunal No.II,
Special Sub Court,
Tiruvallur.

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

7/9



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C.M.A.No.1002 of 2025



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