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CMA No. 2360 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14-08-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

**CMA No. 2360 of 2025 and CMA No. 1577 of 2025 of 2025
and CMP No. 13924 of 2024**

1. SHENBAGAVALLI

W/o. Sasikumar, No. 8, Vinayagar Koil
Street, Thilaspeth, Puducherry-008.

Appellant(s)

Vs

1. Ubathiya

S/o. Rajasekaran, No.C/C36, Police
Quarters, Danvanthry Nagar,
Puducherry-006.

2.Praveen

S/o. Muthukrishnan, No. 7, 10th Cross
Street, Ilango Nagar, Orleanpet,
Puducherry-11

3.The Branch Manager

ACKO General Insurance Co. Ltd., No.
31, Mohammed Hussain Street,
Bharathi Slai, Royapettah, Chennai-14.

Respondent(s)



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CMA No. 2360 of 2025



For Appellant in Mr.P.Sudagar
CMA No. 2360 of
2025

For First respondent
in CMA No. 1577 of
2025(s):

For Respondent third Mr.B.Sivakollappan
respondent in CMA
No. 2360 of 2025

For Appellant in
CMA No. 1577 of
2025:

PRAYER IN CMA NO. 1577 OF 2025:

To set aside the judgement and decree dated 27.04.2024 made in MCOP No. 1365 of 2022, on the file of Additional Motor Accident Claims Tribunal, Puducherry.

CMA No. 1577 of 20255

The Branch Manager

ACKO General Insurance Co. Ltd.,

No. 31, Mohammed Hussain Street,

Bharathi Slai, Royapettah, Chennai-14.

... Appellant

1. SHENBAGAVALLI

W/o. Sasikumar, No. 8, Vinayagar Koil Street, Thilaspeth, Puducherry-008.

1. Ubathiya

S/o. Rajasekaran,

No.C/C36, Police Quarters,

Danvanthry Nagar,

Puducherry-006.



2.Praveen

S/o. Muthukrishnan,

No. 7, 10th Cross Street,

Ilango Nagar, Orleanpet, Puducherry-11

...Respondents

PRAYER IN CMA NO. 2360 OF 2025:

To set aside award dated 27.04.2024 made in MCOP No. 1365 of 2022, on the file of Additional Motor Accident Claims Tribunal, Puducherry.

COMMON JUDGEMENT

These Civil Miscellaneous Appeals have been filed to set aside the judgement and decree dated 27.04.2024 made in MCOP No. 1365 of 2022, on the file of Additional Motor Accident Claims Tribunal, Puducherry.

2. Since the issue raised in these appeals are the same, the parties are also same and also challenge the same judgement passed by the tribunal, hence the appeals are being disposed of by the common judgment.

3. On 09.09.2022 at about 05.30 p.m., when the claimant was riding her TVS Jupiter Scooter bearing Registration No. PY 05 L 2486 at Vazhudavur Road, Gundupalayam, opposite to Hot Chips, Puducherry from West to East direction, the first respondent came in his Yamaha FZ Motorcycle bearing



registration No. PY 01 CM 8106 in the same direction and in a rash and negligent manner dashed against the claimant, due to which, the claimant sustained multiple grievous injuries all over the body and thereafter she was taken to the hospital. Thereafter the claimant filed the petition before the triabunal claiming compensation. The respondents contested the case by filing counter. After considering the oral and documentary evidence the tribunal awarded compensation. Challenging the award passed by the tribunal the Insurance company filed this appeal and on the other side the claimant also filed the separate appeal to enhance the compensation. Since both the appeals are challenging the same judgement hence this Court pass the common judgement

4. For the sake of convenience, the parties are denoted as Insurance company and claimant.

5. The learned counsel for the appellant Insurance Company submits that at the time of the accident victim ridden the two wheeler without any valid driving licence but it has not been considered by the tribunal and there is a contributory negligence on the part of the victim. Further, he pointed out that



even in her evidence P.W.1/victim stated that she has no loss of income in spite

of that the tribunal awarded exorbitant amount under the head of loss of income

as well as it awarded Rs.3 lakhs for pain and sufferings as such is liable to be

set aside. Hence, he prays to set aside the award passed by the tribunal.

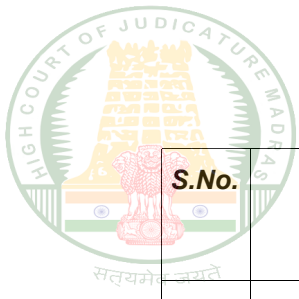
6. The learned counsel for the claimant submits that due to the said accident the claimant sustained fracture for which she underwent a surgery for ORIF with plating CC Titanium Screw and taken inpatient treatment for 19 days. Further, the medical board assessment is in support with discharge summary. Further, he submits that the claimant had taken treatment in the JIPMER Hospital, Puducherry, based on the follow up medical records tribunal fixed Rs.3 lakhs under the head of pain and sufferings. Though the claimant produced medical bills to the tune of Rs.3,90,000/-, tribunal awarded only Rs.3,50,000/- under the head of medical bills. Hence, he prays to enhance the compensation.

7. Heard the submission of the learned counsel for the Insurance Company and the learned counsel for the claimant.



8. On perusal of the records, it reveals that the claimant has sustained grievous injuries and taken treatment for 19 days in hospital and also considering the cost of living at time of the accident this Court is inclined to fix Rs.9,000/- per percentage of disability. Accordingly, the award passed under the head of disability is enhance to Rs.2,25,000/- for disability of 25%.

9. In respect of medical bill, the tribunal has rightly made the reason for declining the bill amount in para 19 of award. Before the tribunal, the Insurance Company has not raised any objection with regard to marking the medical bill therefore the objection raised by the Insurance Company at this stage is not acceptable one. But, In respect of pain and sufferings, the tribunal has awarded Rs.3,00,000/- under the head of pain and sufferings which is exorbitant. Hence, this Court is inclined to reduce the award passed by the tribunal under the head of pain and sufferings from Rs.3 lakhs to Rs.2 lakhs. Further, the claimant also contributed the accident, hence this Court is inclined to fix 10% contributory negligence upon the claimant. Except above modification, the award passed by the tribunal in other heads remain unchanged.



S.No.	Head	Compensation awarded by the Tribunal	Compensation awarded by this Court
1.	Pain and sufferings	Rs.3,00,000/-	Rs.2,00,000/-
2.	Loss of Income	Rs.1,00,000/-	Rs.1,00,000/-
3.	Medical Expenses	Rs.3,50,000/-	Rs.3,50,000/-
4.	Transportation expenses	Rs.20,000/-	Rs.20,000/-
5.	Extra Nourishment	Rs.20,000/-	Rs.20,000/-
6.	Attender charges	Rs.40,000/-	Rs.40,000/-
7.	Damages to cloths and article	Nil	Nil
8.	Lost of amenities	Rs.20,000/-	Rs.20,000/-
9.	For permanent disability	Rs.1,25,000/-	Rs.2,25,000/-
10	Total	Rs.9,75,000/-	Rs.9,75,000/-

10. After deducting 10% towards contributory negligence the claimant is entitled to Rs.8,77,500/-. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to Rs. 8,77,500/-. The 3rd respondent in CMA No. 2360 of 2025 is directed to deposit the said amount - together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realization, to the credit of MCOP No. 1365 of 2022, on the file of Additional Motor Accident Claims Tribunal, Puducherry, within a period eight weeks from the date of receipt of a copy of this judgement. On such deposit, the **claimant** is permitted to withdraw the award amount by making formal application before the Tribunal. The respondent may deduct the



excessive amount, if any, deposited before the tribunal.

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11. With the above direction, the Civil Miscellaneous Appeals are partly allowed. No costs. Pending petition(s), if any, is/are closed.

14-08-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

1. The Additional Motor Accident Claims Tribunal, Puducherry.
2. The Section Officer, V.R Section, High Court, Madras.



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CMA No. 2360 of 2025



T.V.THAMILSELVI J.
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