



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-07-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 3076 of 2024

R. Sakthivel

S/o. Ramasamy, No.9/15-A,

Rajaganapathy Kovil Street, Vennandur

Post, Rasipuram Tk, Namakkal Dt.

Appellant(s)

Vs

1.PALANIVEL

S/o. KaliyannaGounder,

2.The Branch Manager,

The United India Insurance Company Ltd.,

No.5-B11, SBI Upstairs,

Salem Road, Rasipuram TK

Namakkal District.

Respondent(s)

PRAYER:Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, prays to enhance the compensation in judgment dated 22.10.2024 in MCOP NO.97 of 2008 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge), Rasipuram.

For Appellant(s): M/s. R. Nalliyappan, G. Sathish

For Respondent(s): M/s. D.Venkatachalam For R2
R1 - Died



JUDGEMENT

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The appellant / claimant has filed this appeal to enhance the compensation in judgement dated 22.10.2024 in MCOP NO.97 of 2008 on the file of the Motor Accidents Claims Tribunal (Subordinate Court), Rasipuram.

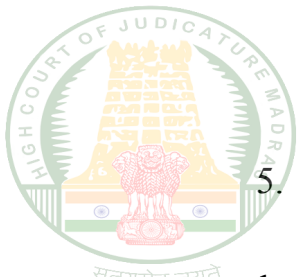
2. The brief facts of the case of the appellant/claimant are as follows: On October 23, 2014, at around 4:30 PM, between Venandur and Rasipuram Main Road, near Tachangadu, the claimant was riding his TVS 50 motor-cycle bearing Registration No. TN 28 S 8916. At that time, a Maruti car bearing Registration No. TN 28 S 6413, driven by the first respondent, collided with the claimant's vehicle in a rash and negligent manner. As a result, the appellant sustained severe injuries all over his body, including a fracture on his right shoulder. Subsequently, the appellant was taken to the Government Hospital at Rasipuram for initial treatment and was later referred to Palaniyandi Mudaliar Memorial Hospital at Salem for further treatment. A criminal case was registered against the first respondent at the Vennandur Police Station, Rasipuram Taluk, in Crime No. 332 of 2004. The first respondent is the owner-



cum-driver of the Maruti car involved in the accident, and the second respondent is the insurer of the said vehicle, holding Policy No. 170703/31/04/00484, which was valid on the date of the accident. Hence, both the first respondent, as owner/driver, and the second respondent, as the insurer, are vicariously and statutorily liable to pay compensation.

3. The learned counsel for the appellant/claimant submitted that the Tribunal failed to properly consider the multiple injuries sustained by the claimant and erroneously fixed a meagre amount of only Rs.5,000/- as compensation, which may modified.

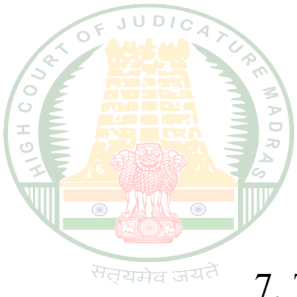
4. On the other hand, the learned counsel for the 2nd respondent / Insurance Company contended that the appellant / claimant sustained only simple injuries in the said accident and that the Tribunal rightly fixed the compensation at Rs.5,000/-, considering the fact that the accident occurred in the year 2014.



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5. On consideration of the submissions made by both sides and on a perusal of the Wound Certificate marked as Ex.P3, it is revealed that the appellant sustained multiple injuries, though not grievous in nature. Therefore, the Tribunal rightly treated the injuries as simple in nature. However, considering the fact that the appellant was admitted and discharged within two days, this Court is inclined to award a sum of Rs.5,000/- towards pain and suffering. This is in addition to the amount already awarded by the Tribunal. Therefore, the total compensation is $\text{Rs.5,000} + \text{Rs.5,000} = \text{Rs.10,000/-}$.

6. It is further noted that the driving licence of the first respondent had expired at the time of the accident. Hence, the Tribunal fixed the entire liability on the owner of the vehicle. However, this Court is of the opinion that the said liability fastened solely on the owner requires modification. On the date of the accident, the vehicle was insured with the second respondent, United India Insurance Company Limited. Accordingly, the second respondent / Insurance Company is directed to pay the compensation amount to the claimant, with liberty to recover the said amount from the first respondent under the principle of **"pay and recovery."**

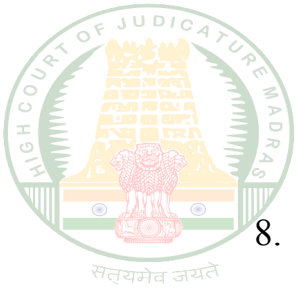


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7. The second respondent / United India Insurance Company Limited is directed to deposit the compensation amount of Rs.10,000/- (Rupees Ten Thousand only), together with interest at the rate of 7.5% per annum, from the date of the claim petition till the date of deposit, to the credit of M.C.O.P. No.97 of 2008, on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Rasipuram, within a period of four weeks from the date of receipt or uploading of a copy of this order. Upon such deposit, the Insurance Company shall recover the same from the owner of the vehicle (first respondent) under the same cause of action.

(i) On such deposit being made by the 2nd respondent, the appellant / claimant is at liberty to withdraw the same in the manner known to law.

(ii) The appellant/claimant is not entitled to claim any interest for the delay, if any, in filing this appeal.



8. In view of the above, this Civil Miscellaneous Appeal is partly

allowed. There shall be no order as to costs.

07-07-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Motor Accidents Claims Tribunal
(Subordinate Judge), Rasipuram.

2. The Branch Manager

The United Insurance Co. Ltd, No.5-
B11, SBI Upstairs, Salem Road,
Rasipuram Tk, Namakkal Dt.

3. The Section Officer, VR section,
High Court of Madras.



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T.V.THAMILSELVI J.
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