



C.M.A.No.770 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 24.03.2025

CORAM:

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

C.M.A. No. 770 of 2025

and

C.M.P. No. 6201 of 2025

Reliance General Insurance Company Ltd.,
Having Branch office at Shakthi Super Market,
3rd Floor, No.408, Perundurai Road,
Erode.

... Appellant

Vs.

1.M. Prakasam

2.P. Senthilkumar

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 07.08.2024 made in M.C.O.P.No.909 of 2018 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate Court) at Dharmapuri.



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For Appellant : Mr. P. Suresh Srinivasan.

For Respondents : Mr. P.M. Jayachandran.

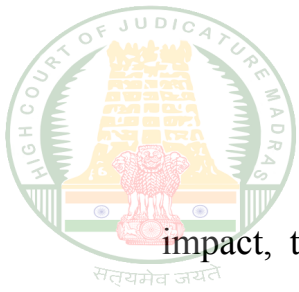
R2 – Exparte.

J U D G M E N T

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

This Civil Miscellaneous Appeal has been preferred by the appellant/insurance company, assailing the award dated 07.08.2024 passed in M.C.O.P.No.909 of 2018 by the Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Dharmapuri. With the consent of both parties, the appeal is taken up for final disposal at the admission stage.

2. On 07.07.2018, the first respondent was traveling as a pillion rider on a two-wheeler bearing Registration No. TN 24 Y 1003, proceeding from Bommidi to B.Thurinjipatti via Hosur Road. At that time, a Mahindra Centuro two-wheeler bearing Registration No. TN-29 AT 6504, owned by the second respondent and insured with the appellant, was driven in a rash and negligent manner by its driver, colliding with the two-wheeler carrying the first respondent. As a result of the



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impact, the first respondent/claimant sustained grievous injuries. Consequently,

the first respondent filed a claim petition seeking a total compensation of Rs.50,00,000/-.

3. The appellant filed a counter statement, denying the averments made in the claim petition and contending that the driver of the Mahindra Centuro two-wheeler, insured with the appellant, did not hold a valid driving license. Consequently, the appellant asserted that it is not liable to pay any compensation and sought dismissal of the petition. The second respondent remained absent before the Tribunal and was set ex parte.

4. In support of the claim, the first respondent examined himself as PW1 and produced documentary evidence marked as Ex.P.1 to Ex.P.16. On the appellant's side, no witnesses were examined, and no documents were marked.

5. After a thorough consideration of the pleadings, oral evidence, and documentary records, the Tribunal awarded a sum of Rs.32,45,977/- as compensation to the first respondent, directing the appellant to pay the amount and



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recover the same from the second respondent. Aggrieved by the said award, the

appellant has preferred the present appeal.

6. Heard the parties and perused the materials available on record.

7. The learned counsel for the appellant contended that the Tribunal erred in concluding that the accident occurred due to the negligent driving of the vehicle insured with the appellant, as there was no eyewitness to substantiate the allegation of negligence. It was further argued that the Tribunal, relying on the disability certificate, assessed the disability at 100% without distinguishing between physical disablement and loss of earning capacity. The learned counsel also submitted that the Tribunal erroneously added 25% towards future prospects for the injured, contrary to the principles laid down in *Pranay Sethi's* case, wherein only 10% should have been added. Additionally, it was argued that the compensation awarded under other heads is highly excessive. Hence, the learned counsel sought the allowance of the appeal.



8. On the other hand, the learned counsel for the first respondent contended that

the accident occurred solely due to the rash and negligent driving of the Mahindra Centuro two-wheeler, which collided with the first respondent. It was further submitted that an FIR has been registered in Cr.No.113 of 2018 in connection with the incident. Therefore, it was argued that the Tribunal's award does not warrant any interference, and the appeal deserves to be dismissed.

9. Upon a careful examination of the records and evidence available, it is evident that the Tribunal, after a thorough analysis of the evidence and arguments presented, has rightly concluded that the accident occurred solely due to the rash and negligent riding of the Mahindra Centuro two-wheeler. The Tribunal has correctly applied the principle of preponderance of probabilities, which is the standard of proof in motor accident claim cases, rather than insisting on the criminal standard of proof beyond a reasonable doubt. Furthermore, the driver of the offending vehicle did not appear before the Tribunal to dispute the claim or adduce any evidence in his defense. In the absence of any contrary evidence, there is no substantial reason to interfere with the finding of negligence as determined by the Tribunal.



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The Tribunal awarded a total sum of Rs.32,45,977/- as compensation. It is evident that the Tribunal, while assessing the income of the first respondent who was engaged in agriculture and milk vending, fixed the notional income at Rs.10,000/- per month, as no documentary evidence was produced to substantiate the actual earnings. However, it is well settled in *Andal v. Avinav Kannan and Ors.* that a reasonable notional income should be considered in the absence of documentary proof. Taking into account the first respondent's occupation as an agriculturist and milk vendor, it would have been appropriate to assess the monthly income at Rs.14,000/-. The Tribunal, however, erred in fixing the future prospects at 25%. As per the decision in *Pranay Sethi's* case, for a self-employed individual aged 51 years, the future prospects should be fixed at 10%. Therefore, 10% towards future prospects is added. As per the judgment in *Sarala Varma's* case, the Tribunal has rightly adopted the multiplier of '13'. The disability certificate, marked as Ex.P.15, reflects a 100% disability, which does not warrant any interference. Accordingly, the loss of income is calculated as follows:
 $(Rs.14,000 + 10\%(Rs.1,400)) \times 12 \times 13 \times 100\% = Rs.24,02,400/?$ The compensation

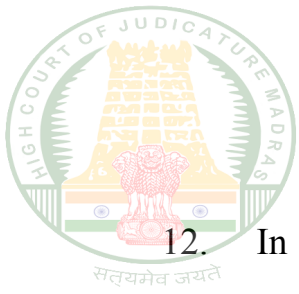


awarded under the other heads is fair and reasonable and does not warrant

interference.

11. Consequently, the total compensation amount is increased from Rs.32,45,977/- to Rs.36,98,377/- 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	Disability	Rs.1,950,000	Rs.2,402,400	Enhanced
2	Attenders expenses	Rs.10,800	Rs.10,800	Confirmed
3	Loss of income	Rs.30,000	Rs.30,000	Confirmed
4	Medical expenses	Rs.1,215,177	Rs.1,215,177	Confirmed
5	Pain and suffering and trauma	Rs.20,000	Rs.20,000	Confirmed
6	Transport expenses	Rs.10,000	Rs.10,000	Confirmed
7	Nourishment	Rs.10,000	Rs.10,000	Confirmed
	Total	Rs.3,245,977	Rs.3,698,377	Enhanced



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12. 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 weeks from the date of receipt of a copy of this Judgment and thereafter, recover the same from the second respondent. 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)

24.03.2025

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Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation: Yes / No

To

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1. The Motor Accident Claims Tribunal,
Chief Judicial Magistrate Court,
Dharmapuri.

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

R.SURESH KUMAR, J
and
DR. A.D. MARIA CLETE, J

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