



C.M.A.No.141 of 2025

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**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 27.01.2025

CORAM

**THE HONOURABLE MRS. JUSTICE J.NISHA BANU**  
and  
**THE HONOURABLE MR. JUSTICE R.SAKTHIVEL**

C.M.A.No.141 of 2025  
and C.M.P.No.1230 of 2025

The Manager,  
Reliance General Insurance Company Limited,  
Reliance Center, South Wing,  
4<sup>th</sup> Floor, Opp. to Western Express Highway,  
Santacruz East, Mumbai,  
Maharashtra - 400 055. ... Appellant

Vs.

1. Sakthivel  
2. C. Chandrasenan ... Respondents

**Prayer:** This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 28.08.2024 passed in M.C.O.P.No.212 of 2022 on the file of the Exclusive Motor Accident Claims Tribunal, Dharmapuri.

For Appellant : Mr.P.Suresh Srinivasan

For Respondent : Mr.M.Selvam

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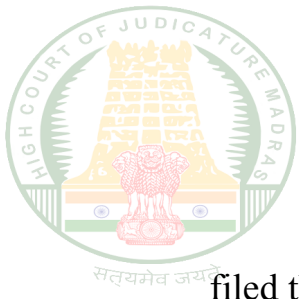
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### **JUDGMENT**

*(Judgment of the Court was delivered by **J. Nisha Banu, J**)*

This Civil Miscellaneous Appeal has been filed by the appellant/Insurance Company challenging the Award passed by the Motor Accident Claims Tribunal, Dharmapuri, in M.C.O.P.No.212 of 2022, dated 28.08.2024.

2. The case of the claimant is that on 17.01.2022 at 12.45 p.m, when the claimant viz, Sakthivel along with one Sanjeevan was proceeding to B.S.Agraharam in a motorcycle bearing Registration No.TN-38-CY-0338, and when they approached A-Sekkarapatti-Pappampalayam diversion road, a car bearing Registration No.TN-01-AS-8285, came from the opposite direction, which was driven by its driver at a high speed in a rash and negligent manner, hit the motorcycle driven by the claimant. In the said accident, the claimant Sakthivel and one Sanjeevan sustained injuries. Therefore, the claimant filed the claim petition in M.C.O.P.No.212 of 2022 on the file of the Motor Accident Claims Tribunal, Dharmapuri, claiming a compensation of Rs.75,00,000/- and the Tribunal has awarded a sum of Rs.41,55,800/- as compensation. Aggrieved over the same, the Insurance Company has



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filed the present Appeal.

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3. The learned counsel appearing for the appellant/Insurance Company submits that the Tribunal went wrong in holding that the alleged accident was caused due to the rash and negligent driving of the driver of the Car bearing Registration No.TN-01-AS-8285, insured with the appellant and went wrong in holding that the appellant is liable to pay a huge compensation of Rs.41,55,795/-. He further submits that the Tribunal went wrong in fixing the income of the as Rs.14,000/- per month without any basis and went wrong in adding 40% of the same towards future prospects. He further submits that the Tribunal has erroneously granted a sum of Rs.1,50,000/- towards pain and suffering and a sum of Rs.1,50,000/- towards loss of amenities without application of mind. Therefore, he submits that the total compensation of Rs.41,55,795/- under various heads is unsustainable and the same is liable to be interfered with.

4. The appeal is taken up for final disposal at the admission stage itself, since the disposal of this case will not affect the respondents in any manner.



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5. Before the Tribunal, in order to prove the claim petition, the claimant/injured has examined himself as P.W.1 and one Sanjeevan was examined as P.W.2 and exhibits Ex-P.1 to Ex-P.19 were marked. On the side of the respondents, neither any witness was examined nor any document was marked. The disability certificate of Sakthivel was marked as Ex.X1.

6. The Tribunal, based on the oral and documentary evidences, awarded the compensation as tabulated below:-

| S.No. | Head                                      | Amount              |
|-------|-------------------------------------------|---------------------|
| 1     | Compensation for Loss of earning capacity | Rs.37,25,600        |
| 2     | Compensation for disability               | Nil                 |
| 3     | Pain and suffering                        | Rs.1,50,000         |
| 4     | Extra nourishment                         | Rs.25,000           |
| 5     | Attender Charges                          | Rs.20,000           |
| 6     | Loss of income                            | Rs.84,000           |
| 7     | Damages to clothes                        | Rs.5,000            |
| 8     | Future medical expenses                   | Nil                 |
|       | Medical expenditure                       | Rs.4,37,950         |
|       | Loss of Amenities                         | Rs.1,50,000         |
|       | Transportation Charges                    | Rs.20,000           |
|       | <b>Total</b>                              | <b>Rs.46,17,550</b> |



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7. As far as the contention of the learned counsel for the appellant that the Tribunal went wrong in holding that the alleged accident was caused due to the rash and negligent driving of the driver of the Car bearing Registration No.TN-01-AS-8285 is concerned, in the evidence, P.W.1 and P.W.2 have stated that on 17.01.2022 at 12.45 p.m, the claimant viz, Sakthivel and one Sanjeevan were proceeding to B.S.Agraharam in a motorcycle bearing Registration No.TN-38-CY-0338 and it was driven by the claimant. When they came near A-Sekkarapatti-Pappampalayam diversion road, a Car bearing Registration No.TN-01-AS-8285, came from the opposite direction, which was driven by its driver at a high speed and in a rash and negligent manner, hit the motorcycle and in the said accident, Sakthivel and Sanjeevan sustained injuries.

8. Moreover, P.W.1 and P.W.2, are the eyewitnesses to the occurrence and they are the competent person to speak regarding the mode and manner of the accident and also who are responsible for the accident. The evidence of P.W.1 and P.W.2 are clear and categorical that



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the accident occurred due to negligence of the Car driver. Ex.P1/ F.I.R., shows that the police filed an F.I.R. against the Car driver. The evidence of P.W.1 and P.W.2 and Ex.P1 establish that the car was not driven with due care and caution and was driven in a negligent manner. On the other hand, the first respondent herein has not entered into the witness box to explain the circumstances surrounding the accident. The second respondent has not chosen to examine neither independent eyewitness nor documentary evidence to disprove the case of the claimant. Therefore, from the evidence of P.W.1 and P.W.2, it is clear and categorical that the accident occurred due to the rash and negligent driving of the Car driver. Thus, the Tribunal fixed the negligence on the part of the driver of the Car bearing Registration No.TN-01-AS-8285, insured with the appellant, which in our opinion is proper.

9. Insofar as the contention of the learned counsel for the appellant that the Tribunal went wrong in fixing the income of the deceased as Rs.14,000/- per month without any basis and went wrong in adding 40% of the same towards future prospects is concerned, before the Tribunal, the petitioner deposed that he was aged about 19 years at the time of the



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accident and he was doing mason work and was earning a sum of Rs.30,000/- per month. To substantiate the same, the petitioner has filed Ex.P6, a copy of Membership Card issued by the Tamil Nadu People's Building Labour and Non-Organized Worker's Council but not produced documents to ascertain his income. Hence, considering the age of the claimant and socio-economic conditions, cost of living prevailing in the year 2022, at the time of the accident, the Tribunal fixed a sum of Rs.14,000/- as notional monthly income of the claimant and added 40% towards future prospects since the claimant was aged about 19 years, which in our opinion is just and proper.

10. The contention of the learned counsel for the appellant that the Tribunal has erroneously granted a sum of Rs.1,50,000/- towards pain and suffering and a sum of Rs.1,50,000/- towards loss of amenities are concerned, considering the nature of injuries such as (1) right leg below knee removed, (2) cut injuries over right leg above the knee, and (3) injuries over the right hand, which prevented the claimant from doing his earlier avocation and the claimant has to suffer this disability throughout his life, the Tribunal granted a sum of Rs.1,50,000/- towards



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pain and sufferings and another sum of Rs.1,50,000/- towards loss of amenities and the same does not require interference by this Court.

11. In view of above, this Court is of the opinion that the compensation awarded under all the heads by the Tribunal are reasonable, weight of evidence and based on settled principles and therefore, there is no ground to interfere with the judgment passed by the Tribunal below. Further, the grounds taken by the Insurance Company on the point of liability cannot be raised at this stage and therefore, it cannot be accepted. Therefore, the grounds raised by the Insurance Company are liable to be rejected and they are rejected accordingly. The compensation awarded by the Tribunal is just, fair and reasonable.

12. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant / Insurance Company shall deposit the entire compensation amount, along with interests and costs, as awarded by the Claims Tribunal, less the amount already deposited, if any, within a period of four weeks, from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the



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deposited amount to the Savings Bank Account of the claimant / injured / first respondent herein, forthwith, through RTGS. Consequently, the connected Miscellaneous Petition is closed.

**(J.N.B., J.) (R.S.V., J.)**  
**27.01.2025**

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To

The Exclusive Motor Accident Claims Tribunal,  
Dharmapuri.



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and  
**R. SAKTHIVEL, J.**

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