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C.M.A.No.108 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 16.02.2026

Pronounced on : 24.04.2026

CORAM

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.M.A.No. 108 of 2023

Ramasamy

...Appellant

Vs.

1. Elumalai

2. M/s. United India Insurance Company Limited,
No.15, First Street, Salem Main Road,
Ulundurpet 606 107

...Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act,1988, to set aside the Award dated 18.11.2022 made in M.C.O.P. No.38 of 2019 on the file of the Motor Accident Claims Tribunal / Principal District Judge, Perambalur.

For Appellant : Mr.C. Vidhusan

For Respondents : Ms. I. Malar for R2

R1 - No appearance



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JUDGMENT

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This appeal, under Section 173 of Motor Vehicles Act, has been filed by the appellant/claimant for enhancement of the sum awarded in the judgment and decree dated 18.11.2022 made in M.C.O.P. No.38 of 2019 on the file of the Motor Accident Claims Tribunal / Principal District Judge, Perambalur.

2. For the sake of convenience, the parties are referred to as per their ranking in the Tribunal.

3. Shortly stated, on 27.06.2018, at about 7.30 hours, when the appellant / petitioner and his friend Narayanasamy were standing at the edge of the cart tract on the north of Pasumattai Konar land at Pasumbalur to Nerkunam Road, near Duraisamy Udayar land, in a two wheeler bearing Registration No. TN 46 R 4993, a Mahindra Tractor bearing Registration No.TN 32 K 1525, was suddenly moved in a reverse direction by its driver in a rash and negligent manner and dashed against the appellant / petitioner and his friend Narayanasamy. Due to the said accident the appellant / petitioner sustained multiple grievous injuries and he was taken to Government Hospital and thereafter shifted to Q Med Hospital at Puthur, Trichirapalli, for further

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treatment, where he underwent surgery and discharged on 06.07.2018.

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4. The claimant filed the above MCOP claiming compensation of Rs.15,00,000/- for the injuries sustained by him in the said accident.

5. The Claim petition was resisted by the 2nd respondent by stating that the driver of the 1st respondent vehicle did not hold valid driving licence at the time of accident and that the rider of the two wheeler, without valid driving license, drove the vehicle with hectic speed and dashed against the insured vehicle which was stationed in the cultivating land and hence, they are not liable to pay any compensation to the petitioner. Hence, prayed for dismissal of the claim petition.

6. The Claims Tribunal framed necessary issues and came to the conclusion that the accident occurred due to the negligence of the driver of the 1st respondent vehicle, awarded a compensation of Rs.1,62,147/- and directed the 2nd respondent Insurance Company to pay the said amount together with interest at the rate of 7.5% per annum from the date of petition till the date of realization at the first instance and then recover the same from the 1st



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respondent / owner of the offending vehicle, since driver of the 1st respondent vehicle had no valid driving licence at the time of accident.

7. Seeking enhancement of compensation, the present Civil Miscellaneous Appeal is filed by the appellant/petitioner.

8. Mr. C. Vidhusan, the learned counsel for the appellant/petitioner would contend that, the Tribunal failed to consider that the appellant/petitioner sustained avulsion injury on his scalp and forehead and fracture in the right 4th and 5th ribs and was bed ridden for 10 days and also underwent a surgery. At the time of accident, the appellant / petitioner was an agriculturist and grains wholesale commission agent earning a sum of Rs.50,000/- per month. Due to the accident, the petitioner often suffers giddiness and vomiting and could not do his work as before the accident and has lost his earning capacity. The Tribunal awarded a very meagre amount of Rs.50,000/- towards disability by fixing Rs.5000/- per percentage of disability. The amounts awarded under the other heads are also very meagre and hence prayed for enhancement of compensation.



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9. On the other hand, Ms. I. Malar, the learned counsel for the 2nd respondent / Insurance Company submitted that, the Tribunal, after analysing the oral and documentary evidence, had awarded just compensation which requires any interference by this Court.

10. Heard on both sides. Records perused.

11. On a perusal of the impugned Award, it is seen that, the appellant / petitioner has sustained fracture on his right side 4th and 5th ribs and injury on his scale and forehead; that a surgery was done in the Q Med Hospital, Trichy and that the Medical Board issued Ex.C1 disability certificate assessing his disability as 10%. Considering the nature of injuries, this Court is of the view that the tribunal has rightly adopted per percentage method, which warrants any interference. However, considering the year of accident, it would be appropriate to fix Rs.7,000/- per percentage of injuries. Accordingly, a sum of Rs.70,000/- (7000x10) is awarded towards permanent disability. Further, considering the nature of injuries sustained by the appellant, it is obvious that the he would have been out of action for about a month. Though it is



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contended by the learned counsel for the appellant/petitioner that the petitioner was an agriculturist and grains wholesale commission agent earning a sum of Rs.50,000/- per month, no document has been produced by the appellant / petitioner to prove his avocation and income. Hence, a sum of Rs.14,000/- is fixed as his monthly income and accordingly a sum of Rs.14,000/- is awarded towards loss of income during the period of treatment. Compensation awarded by the tribunal under the others heads are just and reasonable and the same are confirmed.

12. The following tabular column would show the amount awarded by the Tribunal and the enhanced amount awarded by this Court.

S.No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed / enhanced/ granted
1.	Disability	50,000/- (10x5000)	70,000/- (10x7000)	Enhanced
2.	Pain and sufferings	10,000/-	10,000/-	Confirmed
3.	Extra nourishment	5,000/-	5,000/-	Confirmed
4.	Transportation	5,000/-	5,000/-	confirmed
5.	Medical expenses	92,147/-	92,147/-	Confirmed



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6.	Loss of income	-	14,000/-	granted
	Total	1,62,147/-	1,96,147/-	Enhanced by Rs.34,000/-

13. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed. No costs.
- ii. The compensation awarded by the Tribunal is enhanced to **Rs.1,96,147/-** from **Rs.1,62,147/-**.
- iii. The appellant/petitioner is directed to pay court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after receipt of Court fee.
- iv. The second respondent/Insurance Company is directed to deposit the enhanced compensation amount as stated above (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, at the first instance, to the credit of M.C.O.P. No.38 of 2019 on the file of the Motor Accident Claims Tribunal / Principal District Judge, Perambalur, within a period of **four weeks** from the date of receipt of a copy of this order/uploading of this order, and then recover the same from the 1st respondent / owner of the offending vehicle.



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v.The appellant/petitioner is not entitled to claim any interest for the default period, if any, in filing this appeal.

vi.On such deposit being made, the appellant/petitioner is at liberty to withdraw the same, after following due process of law.

24.04.2026

bga

Internet:Yes/No

Index:Yes/No

Speaking/Non-speaking order

To

1. The Principal District Judge, Motor Accident Claims Tribunal, Perambalur
2. M/s. United India Insurance Company Limited,
No.15, First Street, Salem Main Road,
Ulundurpet 606 107
3. The Court Officer, VR Section, High Court, Madras.



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K.GOVINDARAJAN THILAKAVADI, J.

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**Pre delivery judgment in
C.M.A.No. 108 of 2023**

24.04.2026