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C.M.A.No.1505 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 09.02.2026

Pronounced on : 16.03.2026

CORAM

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.M.A.No. 1505 of 2024

S. Selvakumar

...Appellant

Vs.

1. M/s. Lucky Silks,
Represented by its Proprietor P. Kadhar Batcha,
No.129/84, Annasalai Near Gnanam Hotel,
Thanjavur 613 001.

2. M/s. United India Insurance Company Limited,
Represented by its Divisional Manager,
Jeevan Prakash Ground Floor,
Thanjavur

...Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act,1988, for enhancement of compensation in the judgment and decree dated 26.06.2023 made in M.C.O.P. No.255 of 2019 on the file of the Motor Accident Claims Tribunal / Subordinate 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 26.06.2023 made in M.C.O.P. No.255 of 2019 on the file of the Motor Accident Claims Tribunal / Subordinate Judge, Perambalur.

2. For the sake of convenience, the parties are referred to as per their ranking in the Tribunal and at appropriate places, their rank in the present appeal would also be indicated.

3. Shortly stated, on 18.10.2018, at about 10.30 hours, the appellant / petitioner was riding his two wheeler bearing Registration No. TN-91-V-6638 with his friend Thangadurai on the pillion. When the appellant / petitioner stopped his two wheeler and waited to cross the road from east to west, near Roever College, a car bearing Registration No.TN-49-BK-3333, owned by the 1st respondent, came in a rash and negligent manner from Chennai to Tiruchirapallai and dashed against the appellant's two wheeler, due to which, the appellant / petitioner sustained multiple grievous injuries all over his body and took medical treatment in Perambalur Government Hospital and further



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medical treatment in Retna Global Hospital.

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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 respondents by stating that the appellant / claimant has ridden his two wheeler carelessly and invited the accident and that the Inspector of Police, Perambalur Police Station, has registered a false case against the driver of his vehicle. Hence, they are not liable to pay any compensation to the appellant / claimant.

6. The Claims Tribunal framed necessary issues and came to the conclusion that the accident occurred due to the negligence of the appellant / petitioner as well as the driver of the 1st respondent's car and that both of them are equally responsible for the accident and apportioned the negligence at the ratio of 50:50 among them and awarded a sum of Rs.3,54,315/-. The Tribunal directed the 2nd respondent / Insurance Company to pay the said amount to the appellant /petitioner together with interest at the rate of 7.5% per annum from the date of claim petition till the date of realisation.



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7. Questioning the negligence fixed on the part of the appellant / petitioner and 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 erred in holding that the petitioner has contributed to the accident to an extent of 50% despite the fact that the accident was caused solely due to the rash and negligent driving of the driver of the 1st respondent's car. He would further submit that though the appellant/petitioner was an Agriculturist and earning a sum of Rs.25,000/- per month, the Tribunal fixed the income of the injured appellant only as Rs.8,000/- per month, which is very low and that the Tribunal has not awarded any amount towards Extra Nourishment and future Medical Expenses. Hence, prayed for enhancement of compensation awarded by the Claims Tribunal.

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 rightly fixed 50% contributory



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negligence on the part of the appellant / petitioner and awarded just compensation which requires any interference by this Court.

10. Heard on both sides. Records perused.

11. It is not in dispute that the FIR has been registered based on the statement given by the Appellant/petitioner. As per the FIR, the accident happened when the Appellant/petitioner was crossing the road in his two wheeler and the same was also admitted by the appellant / petitioner during his cross examination. Though the Tribunal has opined that the accident occurred due to the negligence of the petitioner as well as the driver of the 1st respondent car and that both of them are equally responsible for the accident, however, if the driver of the 1st respondent car drove the vehicle in a cautious manner, the alleged accident could have been averted. Moreover, the driver of the 1st respondent car was not examined to prove the manner of accident. Hence, this Court deems it fit to fix the contributory negligence on the part of the appellant / petitioner and the driver of the 1st respondent vehicle in the ratio 40:60.



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12. With regard to fixation of income by the Tribunal, the learned counsel for the appellant / petitioner would contend that the claimant was an agriculturist and electrician earning a sum of Rs.25,000/- per month. But, the same was not established by him. However, considering the year of accident and the age of the appellant, this Court deems it fit to fix the monthly income of the appellant / petitioner at Rs.10,000/-. Accordingly, a sum of Rs.4,28,400/- (**Rs.10,000/- + 4,0000 (40% Future prospects) x 12 x 17 x 15/100**) is awarded towards loss of income due to the disability and Rs.10,000/- is awarded towards loss of income during treatment. The Tribunal has awarded just compensation under the other heads, which warrants any interference.

13. 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.	Loss of income due to the disability	3,42,720/-	4,28,400/-	Enhanced
2.	Pain and sufferings	1,00,000/-	1,00,000/-	Confirmed
3.	Loss of amenities	1,00,000/-	1,00,000/-	Confirmed



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4.	Loss of income during treatment	8,000/-	10,000/-	Enhanced
5.	Conveyance charges	10,000/-	10,000/-	confirmed
6.	Special diet charges	10,000/-	10,000/-	Confirmed
7.	Attender charges	5,500/-	5,500/-	Confirmed
8.	Reimbursement of medical bills	1,32,410/-	1,32,410/-	confirmed
	Total	7,08,630/-	7,96,310/-	
		3,54,315/- (after deducting 50% contributory negligence)	4,77,786/- (after deducting 40% contributory negligence)	Enhanced by Rs.1,23,471/-

14. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed. No costs.
- ii. The compensation awarded by the Tribunal is enhanced to **Rs.4,77,786/-** from **Rs.3,54,315/-**.
- 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



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from the date of claim petition till the date of deposit, to the credit of

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M.C.O.P. No.255 of 2019 on the file of the Motor Accident Claims Tribunal / Subordinate Judge, Perambalur, within a period of **four weeks** from the date of receipt of a copy of this order/uploading of this order.

v.The appellant/petitioner is not entitled to claim any interest for the default period 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.

16.03.2026

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Internet:Yes/No

Index:Yes/No

Speaking/Non-speaking order

To

1. The Subordinate Judge,
Motor Accident Claims Tribunal, Perambalur
2. M/s. United India Insurance Company Limited,
Represented by its Divisional Manager,
Jeevan Prakash Ground Floor,
Thanjavur
3. The Court Officer, VR Section, High Court, Madras.

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4. M/s. Lucky Silks,
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K.GOVINDARAJAN THILAKAVADI, J.

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**Pre delivery judgment in
C.M.A.No. 1505 of 2024**

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