WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2026

CORAM

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

C.M.A.No.2375 of 2024

Kalaiselvan ... Appellant

Vs.

1. Sudharsanam

2. The United India Insurance Company Limited
Motor III Party Cell,
No.134, Shillingi Building,
Greams Road, Chennai – 6. ...Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Judgment and Decree dated 25.09.2023 passed in MCOP No.5415 of 2016 on the file of the Motor Accident Claims Tribunal, V Small Causes Court, Chennai.

For Appellant : Mr.K.Sivakumar

R1 : No appearance

For R2 : Ms.R.Sreevidhya

https://www.mhc.tn.gov.in/judis

WEB COPY

Order QR

J U D G M E N T

The unsuccessful claimant has preferred this Civil Miscellaneous Appeal seeking for enhancement of compensation.

2. The claim petition has been filed under Section 166 of the Motor Vehicles Act, for the injuries sustained by the claimant in a road accident that took place on 11.12.2015.

3. According to the claimant, on 11.12.2015 at about 22.15 hours, while the claimant was travelling as a pillion rider in a motorcycle bearing Registration No. TN 20 CH 0652 at Mylapore Otthukottai Taluk, near Vinayagar Koil, at that time an another motorcycle bearing Registration No TN 20 BJ 4506 ridden by its rider in a rash and negligent manner came from the opposite direction, extremely wrong side of the road and dashed against the claimant and caused the accident. Due to the accident, he sustained multiple injuries all over his body.

https://www.mhc.tn.gov.in/judis

WEB COPY

4. The first respondent did not appear before the Tribunal and he was called absent and was set *ex parte.*

5. The second respondent / Insurance Company has filed a counter statement wherein they denied the manner of accident. It is also stated that the first respondent had no valid and effective driving license to drive the vehicle on the date of the accident.

6. Before the Tribunal, on behalf of the claimant, the claimant examined himself as PW1 and Ex.P1 to Ex.P7 were marked. On behalf of the second respondent, RW1 & RW2 were examined and Ex.R1 to Ex.R5 were marked. The disability certificate issued by the Medical Board was marked as Ex.C1.

7. Upon appreciation of evidence adduced on either side, the Tribunal came to a conclusion that the accident had occurred only to due to rash and negligent act of the rider of the offending vehicle

https://www.mhc.tn.gov.in/judis

WEB COPY

8. With regard to the quantum of compensation, the Tribunal has awarded compensation under various heads as hereunder :

S.No	***Heads***	***Amount awarded by the Tribunal***
1.	Disability	80,000/-
2.	Medical expenses	Nil
3.	Loss of income	30,000/-
4.	Pain and sufferings	30,000/-
5.	Mental agony	20,000/-
6.	Transportation expenses	20,000/-
7.	Nutrition expenses	20,000/-
8.	Damages to clothes	1,000/-
9.	Attender charges	6,500/-
10.	Loss of amenities	30,000/-
Total **Less : 25% Contributory negligence**		**Rs.2,37,500/-** **Rs.59,375/-** **Rs.1,78,125/- rounded off to Rs.1,78,200/-**

9. Aggrieved over the same, the claimant has preferred this present appeal seeking for enhancement of compensation.

https://www.mhc.tn.gov.in/judis

WEB COPY

10. The learned counsel for the appellant / claimant would submit that the Tribunal failed to consider the nature of injuries sustained by the claimant, since the claimant unable to do his day to day activities. Because of this accident, the claimant cannot able to continue his job his avocation was totally affected. The Tribunal ought to have considered the injuries sustained by the claimant as functional disability and have awarded under the head future loss of earning power by adopting multiplier method. However, the Tribunal has fixed a sum of Rs.4,000/- per disability, which is not proper. The compensation awarded by the Tribunal under various heads are very meagre and the same has to be enhanced. The learned counsel further would submit that the Tribunal fixed 25% negligence on the part of the claimant on the ground that the claimant not possessed valid driving license and did not wearing helmet at the time of accident is unsustainable in law.

11. *Per contra,* learned counsel for the second respondent / Insurance Company would submit that upon appreciation of evidence adduced on

https://www.mhc.tn.gov.in/judis

WEB COPY

Order QR

either side, considering the nature of injuries sustained by the claimant and considering the disability assessed by the medical board, the Tribunal had rightly awarded compensation, which does not require any interference by this Court.

12. Heard learned counsel for the appellant as well as learned counsel for the second respondent and perusal the materials available on record.

13. There is no dispute with regard to the manner of accident and the entire negligence fixed on the part of the rider of the offending vehicle. It is also not in dispute, at the time of accident the claimant was not wearing helmet. It is relevant to note that the claimant had sustained right temporal parietal EDH, left frontal parietal craniectomy evacuation of EDH, left frontal fracture and other serious multiple injuries all over the body. A perusal of Ex.P2/discharge summary reveals that the claimant was treated as inpatient at Rajiv Gandhi Government General Hospital from 12.12.2015 to 24.12.2015. A perusal of Ex.P3/out-patient note reveals that the claimant had taken treatment as out-patient from 08.01.2016 to 02.07.2018. It is relevant

https://www.mhc.tn.gov.in/judis

WEB COPY

to note that at the time of accident, the claimant not wearing helmet and the Tribunal fixing 25% contributory negligence on the part of the claimant is not proper. This Court is of the considered opinion that the claimant was travelling as pillion rider in a motorcycle and this Court is inclined to fix 10% contributory negligence on the part of the claimant instead of 25%.

14. With regard to quantum of compensation, the claimant has appeared before the Medical Board and the Medical Board assessed the disability of the claimant at 20%, wherein it has been mentioned that the disability assessed in a particular part of the claimant, not whole body. According to the claimant, he was working as supervisor in a private company due to the disability, his working capacity is affected, however he has not produced any documents to substantiate the same. The Tribunal fixed a sum of Rs.4,000/- per percentage of disability and accordingly, awarded a sum of Rs.80,000/- (Rs.4,000/- x 20%) under the head of disability. This Court is of the considered opinion that in the absence of proof of functional disability and in the absence of proof of loss of earning capacity, the Tribunal has rightly adopted percentage method and awarded

https://www.mhc.tn.gov.in/judis

WEB COPY

Order QR

compensation under the head disability, which appears to proper and reasonable and does not require any interference.

15. With regard to loss of income, the Tribunal has fixed a sum of Rs.10,000/- per month as notional income of the claimant. Considering the fact that the accident took place on 11.12.2015; the claimant was aged about 25 years at the time of accident and considering the nature of his avocation, fixation of Rs.10,000/- per month as notional income is not proper and this Court is inclined to fix a sum of Rs.13,000/- per month as notional income of the claimant would meet the ends of justice. Considering the nature of injuries sustained by the claimant, the claimant ought to have lost his earning atleast for a period of three months and therefore, a sum of Rs.39,000/- (Rs.13,000/- x 3) is enhanced under the head loss of income. The compensation awarded by the Tribunal under other heads appears to be proper and reasonable and does not require any interference.

16. The following tabular column would show the enhanced amount awarded by this Court :

https://www.mhc.tn.gov.in/judis

WEB COPY

S.No	*Heads*	*Amount awarded by the Tribunal*
1.	Disability	80,000/-
2.	Loss of income	39,000/-
3.	Pain and sufferings	30,000/-
4.	Mental agony	20,000/-
5.	Transportation expenses	20,000/-
6.	Nutrition expenses	20,000/-
7.	Damages to clothes	1,000/-
8.	Attender charges	6,500/-
9.	Loss of amenities	30,000/-
Total **Less : 10% Contributory negligence**		**Rs.2,46,500/-** **Rs.24,650/-** **Rs.2,21,850/-**

17. Thus, the compensation awarded by the Tribunal is enhanced to **Rs.2,21,850/-.** This amount shall carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.

18. In the result,

i. The Civil Miscellaneous Appeal is partly allowed. No costs.

ii. The compensation awarded by the Tribunal is enhanced to **Rs.2,21,850/-.**

https://www.mhc.tn.gov.in/judis

WEB COPY

iii. The appellant / claimant is directed to pay the court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after the receipt of Court fee.

iv. The second respondent, the United India Insurance Company Limited, Chennai, is directed to deposit the enhanced compensation amount of **Rs.2,21,850/-** (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 to the credit of MCOP No.5415 of 2016 on the file of the Motor Accident Claims Tribunal, V Small Causes Court, Chennai, within a period of six weeks from the date of receipt of a copy of this order/uploading of this order.

v. On such deposit being made, the appellant / claimant is at liberty to withdraw the same on filing appropriate application before the Tribunal.

28.10.2026

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No
mtl

https://www.mhc.tn.gov.in/judis

WEB COPY

Order QR

M.JOTHIRAMAN, J.

mtl

To

1. The Motor Accident Claims Tribunal
V Small Causes Court, Chennai.

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

C.M.A.No.2375 of 2024

28.10.2026

https://www.mhc.tn.gov.in/judis