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CMA Nos.2604 of 2022 & 133
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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 10.12.2025	PRONOUNCED ON 22.01.2026
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CORAM

**THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

**CMA Nos.2604 of 2022 & 1338 of 2024
and
C.M.P.No.20299 of 2022**

C.M.A.No.2604 of 2022

Reliance General Insurance Co. Ltd.,
Omalur Main Road,
Barathipuram, Salem

Appellant(s)

Vs

- 1.Jacklin Mary, 31
W/o.John Peter
3-5/446 Koorandipudhur,
Navapatty PO, Mettur Taluk,
Salem District.
- 2.Prabhakaran
1/1 Forest Quatres,
Old Government Hospital,
Sathiyamangalam Erode District,
Pin – 638 401.

Respondent(s)

C.M.A.No.1338 of 2024



Jacklin Mary, 31
W/o. John Peter
3-5/446 Koorandipudhur,
Navapatty PO, Mettur Taluk,
Salem District.

... Appellant

Vs

1. Prabhakaran
1/1 Forest Quatres,
Old Government Hospital,
Sathiyamangalam Erode District,
Pin – 638 401.

2. Reliance General Insurance Co. Ltd.,
Omalur Main Road,
Barathipuram, Salem.

... Respondents

Common Prayer:

Civil Miscellaneous Petition filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment passed in M.C.O.P.No.980 of 2019 on 10.02.2022 on the file of the Learned Motor Accident Claims Tribunal / Special Sub Court – I at Salem and be pleased to dismiss the above claim and allow the CMA.

C.M.A.No.2064 of 2022

For Appellant(s):	Mr.P.Suresh Srinivasan
For R1	: Mr.S.P.Yuvaraj
For R2	: No such address

C.M.A.No.1338 of 2024



For Appellant(s): Mr.S.P.Yuvaraj
For R2 : Mr.P.Suresh Srinivasan
For R1 : No such address

COMMON JUDGMENT
(Judgment of the Court was made by K.KUMARESH BABU. J.)

These two Civil Miscellaneous Appeals have been filed against the award dated 10.02.2022 passed in M.C.O.P. No.980 of 2019 by the Special Sub Court, Salem, wherein compensation was awarded in favour of the claimant, who sustained injuries in a road traffic accident.

2) C.M.A. No.2604 of 2022 has been filed by the Insurance Company seeking to set aside the award passed by the Tribunal, whereas C.M.A. No.1338 of 2024 has been filed by the claimant seeking enhancement of the compensation awarded by the Tribunal.

3) The facts leading to the filing of the present appeals are that the claimant, aged about 31 years, was earning a monthly income of Rs.10,000/-. On 25.11.2018 at about 6.30 p.m., the claimant was travelling as a pillion rider on a scooter bearing Registration No. TN 36 AT 3696 from Micheal Palayam to Nanjamadaai Kuttai, proceeding from north to south. At that time, the rider of a Honda Shine motorcycle bearing Registration No. TN 36 AQ 6491 drove the



vehicle in a rash and negligent manner and hit the scooter in which the claimant was travelling, and thereafter dashed against another two-wheeler.

4) Due to the impact, both the rider and the pillion rider fell down and sustained grievous injuries. The claimant suffered haemorrhage and fractures on the right and left side of the brain, inflammation in the cerebrum, and multiple injuries all over the body. The claimant underwent continuous treatment and was advised to take lifelong treatment for the head injury.

5) An FIR was registered in Crime No.592 of 2018 under Sections 279 and 337 of IPC. The claimant filed a claim petition seeking compensation of Rs.50,00,000/-. The Tribunal held that the first respondent was responsible for the accident and further held that the second respondent–Insurance Company was liable to pay compensation. Accordingly, the Tribunal awarded a total compensation of Rs.31,57,853/-.

6) Heard the learned counsels appearing for the respective parties.

7) The learned counsel for the appellant–Insurance Company in C.M.A. No.2604 of 2022 submitted that there was no eyewitness to the occurrence and that the Tribunal passed the award solely based on the charge sheet, which is not a substantive piece of evidence. It was contended that the Tribunal failed to



consider the principle of contributory negligence. It was further submitted that the claimant sustained injuries due to improper wearing of a helmet, which was admitted by the claimant during cross-examination as PW1. It was also contended that the Tribunal failed to consider that the claimant and another rider were conversing with each other at the time of the accident, which contributed to the occurrence.

8) The learned counsel further submitted that the claimant had suffered only 50% disability, whereas the Tribunal assessed a higher percentage without proper basis. It was contended that the quantum of compensation awarded was excessive and unsustainable. It was also argued that the Tribunal erred in awarding interest at the rate of 7.5%, whereas the prevailing rate of interest is between 5% and 5.10%. On these grounds, the learned counsel prayed for setting aside the award passed by the Tribunal.

9) Countering the arguments of the learned counsel for the Insurance company, the learned counsel for the claimant in C.M.A. No.1338 of 2024 submitted that the Tribunal ought to have awarded higher compensation. It was contended that the claimant was self-employed and was also engaged in agricultural work and, therefore, deserved higher compensation. It was further submitted that the Tribunal fixed a lesser monthly income and failed to properly



consider the impact of disability on the claimant's earning capacity. It was further contended that the age of the claimant at the time of the accident was not properly taken into account and that the determination of compensation ought to be independent of the financial status of the claimant. Hence, the learned counsel prayed for enhancement of the compensation awarded by the Tribunal.

10) This Court has carefully considered the submissions made by the learned counsels on either side and perused the materials available on record.

11) The Tribunal has rightly relied upon the deposition of PW1, who clearly stated that the rider of the Honda Shine motorcycle drove the vehicle in a rash and negligent manner and hit the scooter in which the claimant was travelling as a pillion rider, resulting in grievous head injuries to the claimant.

12) On perusal of Ex.P1–FIR, Exs.P5 and P7–Motor Vehicle Inspector's Reports, Ex.P6–Charge Sheet, and Ex.P10–Rough Sketch, it is evident that the accident occurred due to the negligence of the rider of the Honda Shine motorcycle. The records further reveal that the said rider was under the influence of alcohol and did not possess a valid driving licence at the time of the accident.

13) Therefore, the Tribunal was right in fixing liability on the first



respondent and holding that the second respondent—Insurance Company is liable to pay compensation, as the offending vehicle was insured with the second respondent. Though PW1 admitted during cross-examination that the helmet worn by the claimant came off due to improper fastening, this Court finds that, apart from the said admission, there is no material evidence to establish contributory negligence on the part of the claimant. Hence, the finding of negligence rendered by the Tribunal does not warrant interference.

14) With regard to the quantum of compensation, this Court finds that the Tribunal fixed the monthly income of the claimant at Rs.7,500/-. However, on perusal of Ex.P1—FIR, it is evident that the claimant was working as a coolie in a Tiruppur-based company at the time of the accident. Considering the nature of work and the year of accident, this Court finds it appropriate to fix the monthly income at Rs.10,000/-.

15) On perusal of Ex.P15—Disability Certificate and the deposition of PW2, it is evident that the claimant has suffered both physical and mental disability. Considering the nature of injuries sustained, the continuous treatment undergone, and the fact that the claimant is a married woman, this Court, in the interest of justice, enhances the compensation awarded towards pain and suffering from Rs.1,00,000/- to Rs.3,00,000/-. Except for the above



modifications, all other heads of compensation awarded by the Tribunal are sustained.

16) In light of the above observations, this Court modifies the Tribunal's award dated 10.02.2022 passed in M.C.O.P. No.980 of 2019 and for better appreciation, the same is tabulated hereunder.

S.No.	Heads of compensation awarded	Amount awarded by Tribunal	Amount awarded by this Court	Award Modified or confirmed
1	Pain and suffering	Rs.1,00,000/-	Rs.3,00,000/-	Enhanced
2	Medical Expenses	Rs.14,98,853/-	Rs.14,98,853/-	Confirmed
3	Transport Expenses	Rs. 50,000/-	Rs. 50,000/-	Confirmed
4	Extra Nourishment	Rs. 50,000/-	Rs. 50,000/-	Confirmed
5	Damages to clothing and article	Rs.1000/-	Rs.1000/-	Confirmed
6	Loss of Amenities	Rs.1,00,000/-	Rs.1,00,000/-	Confirmed
7	Future medical Bills	Rs.3,00,000/-	Rs.3,00,000/-	Confirmed
8	Attenders charges	Rs.50,000/-	Rs.50,000/-	Confirmed



9	Loss of earning	Rs.10,08,000/- (Rs.7,500+40% (Rs.3000) =Rs.10,500*12*16*50%)	Rs.13,44,000/- (Rs.10000+40% (Rs.4000) =Rs.14,000*12*16*50%)	Enhanced
	Total	Rs.31,57,853/-	Rs.36,93,853/-	Enhanced

17) In the result, In fine, C.M.A. No.1338 of 2024 is partly allowed to the extent indicated above, and C.M.A. No.2604 of 2022 filed by the Insurance Company is dismissed. The Appellant in C.M.A.No.1338 of 2024 is awarded a compensation of Rs.36,93,853/-. The Appellant in C.M.A.No.1338 of 2024 is entitled for the distribution of the aforesaid award. She is also entitled to the interest @ 7.5% per annum from the date of the Original Petition. The Appellant/Insurance company shall deposit the aforesaid amount less any amount that has been deposited earlier together with interest within a period of 30 days from the date of receipt of a copy of this order. Connected miscellaneous petitions are closed. There shall be no order as to costs.

(C.V.K., J.) (K.B., J.)
22-01-2026

Gba
Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No



To

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1. The Motor Accident Claims Tribunal/
Special Sub Court, Salem.
2. The Section Officer,
VR Section, High Court,
Madras.

C.V.KARTHIKEYAN, J.



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and
K.KUMARESH BABU, J.

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