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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-10-2026

CORAM

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

CMA No. 1867 & 1887 of 2022

{CNR:HCMA011242192022}

Ashok Kumar

..Appellant(s)

Vs

1. J. Rengarajan
   [R1 amended as per the order of this Court in Crl.M.P.No.14848/2024 dated 27.10.2026]

2. M/s. United India Insurance Company Limited
   50A, Pallivasal Street,
   Perambalur District - 621 212.
   Rep by its Branch Manager.

..Respondent(s)

CMA No. 1887 of 2022

CNR:{HCMA011242122022}

Kumar

..Appellant(s)

Vs

1. J. Rengarajan
   [R1 amended as per the order of this Court in Crl.M.P.No.14825/2024 dated 27.10.2026]

2. United India Insurance Company Limited
   50A, Pallivasal Street,
   Perambalur Dt 621 212.

..Respondent(s)

CMA No. 1867 of 2022

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to allow the CMA and set aside the award passed by the Motor Accidents Claims Tribunal Judge/Chief Judicial Magistrate,

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Perambalur, by its decree and Judgment dated 06.04.2022, made in MCOP No.290/2019.

CMA No. 1887 of 2022

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to allow the CMA and set aside the award passed by the Motor Accidents Claims Tribunal Judge/Chief Judicial Magistrate, Perambalur by its decree and Judgement dated 06.04.2022, made in MCOP.NO. 289/2019.

For Appellant(s): In both appeals	Mr.C.Vidhusan
For Respondent-1: In both appeals	Insufficient Address – Notice not ready
For Respondent-2: In both appeals	Mr.J.Chandran

Common Judgment

Unsuccessful claimants have preferred the above appeals, challenging 70% negligence fixed on their part and also seeking enhancement of compensation.

2. The claim petition in M.C.O.P.No.290 of 2019 has been filed under Section 166 of the Motor Vehicles Act by the claimant, namely, Ashok Kumar, for the injuries sustained in the road accident. Similarly, the claim petition in M.C.O.P.No.289 of 2019 has been filed under Section 166 of the Motor Vehicles Act by the claimant, namely, Kumar, for the injuries sustained in the

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road accident. The above claim petitions have been filed arising out of the same accident, which took place on 03.07.2018.

3.According to the claimants, on 03.07.2018 at about 12.30 hours, when the claimant in M.C.O.P.No.290 of 2019, namely, Ashok Kumar was driving his Hero Honda Splendor plus motorcycle bearing Registration No.TN-46-K-5713 along with one Kumar, the claimant in M.C.O.P.No.289 of 2019 as pillion rider on Trichy - Chennai National Highway 45 from North to South on the western extreme side of the said road. At that time, a Honda City car bearing Registration No.TN-30-AK-9007, which was coming in the opposite direction driven by its driver in a rash and negligent manner, hit against the motorcycle. As a result of the sudden hit, the rider of the two-wheeler and the pillion rider sustained multiple grievous injuries all over the body.

4. According to the claimant in M.C.O.P.No.290 of 2019, he was admitted at Government Headquarters Hospital, Perambalur, where the first aid was given. Thereafter, for further treatment he was admitted at Retna Global Hospital, Trichy, as inpatient from 03.07.2018 to 09.07.2018 and then till date, he is taking continuous treatment at private nursing home as outpatient. Due to the accident, he is unable to sit, squat or perform his routine activities as he did before. According to him, he was the owner of the hotel and also agriculturist, thereby earned Rs.25,000/- per month.

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5. According to the claimant in M.C.O.P.No.289 of 2019, he was admitted at Government Headquarters Hospital, Perambalur, where the first aid was given. Thereafter, for further treatment he was admitted at Retna Global Hospital, Trichy, as inpatient from 03.07.2018 to 13.07.2018. According to him, he was aged about 55 years at the time of accident. He was working as a Mason and earned Rs.25,000/- per month.

6. The first respondent was called absent and set *ex-parte* before the Tribunal.

7. The second respondent-Insurance Company has filed a counter statement, wherein they denied the manner of the accident and stated that while the driver of the first respondent was rightly going on the South to North road towards North and about to pass the said two-wheeler, the two-wheeler was driven in a rash and negligent manner, came from North to South in a wrong side, its rider lost his driving control and swerved the two wheeler to his left side and got dashed against the car. Therefore, the accident took place due to the rash and negligent driving of the rider of the two wheeler/claimant in M.C.O.P.No.290 of 2019. There is no fault on the part of the driver of the car.

8. Before the tribunal, on behalf of the claimant in M.C.O.P.No.290 of 2019, the claimant himself was examined as PW1 and Exs.P1 to P4 were

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marked. On the side of the second respondent, one Saratha, Assistant from Regional Transport Office, Perambalur, was examined as RW1 and Exs.R1 to R3 were marked. The Disability Certificate issued by the Medical Board was marked as Ex.C1.

9. With regard to M.C.O.P.No.289 of 2019, before the Tribunal, on behalf of the claimant, the claimant himself examined as PW1 and Exs.P1 to P7 were marked. On the side of the second respondent, one Saratha, Assistant from Regional Transport Office, Perambalur, was examined as RW1 and Exs.R1 to R3 were marked. The Disability Certificate issued by the Medical Board was marked as Ex.C1.

10. Upon appreciation of the evidence adduced on either side, the Tribunal finds that, as per the evidence of PW1 in M.C.O.P.No.290 of 2019, the claimant, who studied up to Diploma level and knowing well about the consequences of riding a motorcycle in the wrong direction, chose to do so only to avoid travelling three kilometres distance. Accordingly, he rode the motorcycle in the wrong direction, proceeding from North to South and met with an accident. Since the accident was happened due to rash and negligent riding of the two-wheeler on the wrong direction as well as the rash and negligent driving of the driver of the offending vehicle, who failed to observe the movement of the road, the Tribunal came to a conclusion that the accident

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occurred due to the rash and negligent driving of the two-wheeler and also rash and negligent driving of the first respondent's car and fixed 30% negligence on the part of the driver of the car and 70% negligence on the part of the rider of the two-wheeler and on the part of the pillion rider also.

11. With regard to the quantum of compensation in M.C.O.P.No.290 of 2019, the Tribunal has awarded compensation under various heads as under:

S. No.	***Compensation awarded under the head***	***Amount awarded by the Tribunal (in Rs.)***
1.	For Partial Permanent Disability this Court is inclined to award (Rs.5000x6)	30,000/-
2.	For Transport to Hospital	10,000/-
3	Medical bills	1,58,457/-
4.	For Extra Nourishment	5,000/-
5.	Attender's charge	2,000/-
6.	For Pain and sufferings, mental agony	30,000/-
7.	Temporary loss of Income (Rs.7000x3)	21,000/-
8.	Damage to cloth	1,000/-
	Total	**2,57,457/-**

12. Aggrieved over the same, the claimant has preferred the appeal in C.M.A.No.1867 of 2022, challenging the fixation of 70% negligence on his part and also seeking enhancement of compensation.

13. With regard to the quantum of compensation in M.C.O.P.No.289 of 2019, the Tribunal has awarded compensation under various heads as under:

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S. No.	*Compensation awarded under the head*	*Amount awarded by the Tribunal (in Rs.)*
1.	For Partial Permanent Disability this Court is inclined to award (Rs.5000x6)	30,000/-
2.	For Transport to Hospital	10,000/-
3.	Medical bills	2,29,606/-
4.	Future medical expenses	60,000/-
5.	For Extra Nourishment	5,000/-
6.	Attender's charge	3,000/-
7.	For Pain and sufferings, mental agony	30,000/-
8.	Temporary loss of Income (Rs.7000x3)	21,000/-
9.	Damage to cloth	1,000/-
	Total	**3,89,606/-**

14. Aggrieved over the same, the claimant has preferred the appeal in C.M.A.No. 1887 of 2025, challenging the fixation of 70% negligence on his part and also seeking enhancement of compensation.

15. The learned counsel appearing for the appellants/claimants would submit that in the absence of examination of the driver of the offending vehicle, the Tribunal ought not to have fixed contributory negligence on the part of the rider and the pillion rider of the two-wheeler. The Tribunal failed to consider the fact that the accident took place in the year 2018 and fixing Rs.5,000/- per percentage of disability is very meagre and the same has to be fixed at Rs.7,000/-. The notional monthly income fixed by the Tribunal also to be enhanced. The compensation awarded under the other heads also to be enhanced.

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16. *Per contra*, the learned counsel appearing for the second respondent/Insurance Company would submit that the claimant himself, namely, Ashok Kumar/PW1 in his evidence categorically admitted that he rode the motorcycle in the wrong direction only to avoid travelling three kilometres distance. He proceeded from North to South in the wrong direction and met with an accident. Considering the fact that if the driver of the first respondent's car is care and cautious in observing the movement on the road, he could have avoided the accident, the Tribunal had rightly fixed 30% negligence on the part of the driver of the first respondent's vehicle and 70% negligence on the part of the rider as well as the pillion rider of the two-wheeler, which does not require any interference. With regard to the quantum of compensation, in the absence of proof of functional disability and loss of earning capacity, the Tribunal has rightly adopted percentage method and awarded Rs.5,000/- per disability, which does not require any interference. The compensation awarded under the other heads is reasonable and proper and does not require any interference.

17. This Court has considered the submissions made on either side and perused the materials available on record carefully.

18. According to the claimants, on 03.07.2018 at about 12.30 hours, when the claimant in M.C.O.P.No.290 of 2019, namely, Ashok Kumar was driving his Hero Honda Splendor plus motorcycle bearing Registration No.TN-46-

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K-5713 along with one Kumar, the claimant in M.C.O.P.No.289 of 2019 as pillion rider on Trichy - Chennai National Highway 45 from North to South on the western extreme side of the said road, at that time, a Honda City car bearing Registration No.TN-30-AK-9007, which was coming in the opposite direction driven by its driver in a rash and negligent manner, unmindful of traffic rules and oncoming vehicles, and due to his rash driving, hit against the motorcycle. Due to the accident, they sustained multiple injuries all over their body.

19. It is relevant to note that a criminal case was registered against the driver of the first respondent car on the basis of the complaint given by the claimant in M.C.O.P.No.290 of 2019, namely, Ashok Kumar/PW1. PW1/Ashok Kumar in his cross-examination, categorically deposed that he rode the motorcycle in the wrong direction only to avoid travelling three kilometres distance. He proceeded from North to South in the wrong direction and met with an accident. It is relevant to note that the claimant in M.C.O.P.No.290 of 2019, namely, Ashok Kumar, who studied up to diploma level, knowing well about the consequences in riding a vehicle in the wrong direction. It is relevant to note that in order to prove the negligence on the part of the rider of the motorcycle, neither the driver of the car nor any other independent witnesses have been examined by the Insurance company.

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20. Considering the categorical admission made by PW1, Ashok Kumar, and the fact that if the driver of the first respondent's car is very care and cautious in observing the movement of the vehicle in front of the car, he could have avoided the accident and also considering the fact that the accident occurred due to the rash and negligent riding of the two wheeler by its rider, who proceeded in the wrong direction and the driver of the first respondent's car was also failed to observe the run out of two wheeler, this Court is of the considered view that the accident occurred due to the rash and negligent driving of the rider of the two wheeler as well as the negligent driving of the driver of the first respondent's car.

21. It is relevant to note that the pillion rider also know the consequence in riding the vehicle in the wrong way. Only to avoid travelling three kilometres distance, he was also travelled in the two wheeler in the wrong direction. In the said circumstances, fixation of 70% contributory negligence on the part of the rider as well as the pillion rider of the two wheeler is not proper. This Court is inclined to fix 50% negligence on the part of the rider as well as the pillion rider of the two wheeler and fixes 50% negligence on the driver of the offending vehicle.

22. With regard to the quantum of compensation, the claimant in M.C.O.P.No.290 of 2019, namely, Ashok Kumar, appeared before the Medical

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Board and the Medical Board assessed the disability of the claimant at 6%. Similarly, the claimant in M.C.O.P.No.289 of 2019, namely, Kumar also appeared before the Medical Board and the Medical Board assessed the disability of the claimant at 6%.

23. Considering the fact that the accident occurred on 03.07.2018, the fixation of Rs.5,000/- per disability is not proper. This Court is inclined to increase the rate to Rs.7,000/- per disability. Accordingly, the compensation awarded under the head of permanent disability is modified.

24. It is to be noted that according to the claimant in M.C.O.P.No.290 of 2019, he was the owner of a hotel and also an agriculturist earning Rs.25,000/- per month before the accident. The Tribunal fixed the notional monthly income of the claimant at Rs.7,000/-, which appears to be very meagre. This Court is inclined to fix the notional monthly income at Rs.14,000/-. Similarly, according to the claimant in M.C.O.P.No.289 of 2019, he was aged about 55 years and he was working as Mason and thereby, earned Rs.25,000/- per month. The Tribunal fixed the notional monthly income of the claimant at Rs.7,000/-, which appears to be very meagre. This Court is inclined to fix the notional monthly income of the claimant at Rs.14,000/-.

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25. The compensation awarded by the Tribunal under the heads of Extra Nourishment, Attendant charges and Pain and sufferings, needs enhancement. Considering the nature of injuries sustained by the claimants, this Court is inclined to modify and increase the compensation over and above the award passed by the Tribunal.

26. Accordingly, the compensation awarded by this Court in C.M.A.No.1867 of 2022 is tabulated hereunder:

Heads of Compensation	***Awarded by the Tribunal (Amount in Rs.)***	***Awarded by this Court (Amount in Rs.)***
Partial Permanent Disability	30,000/- (Rs.5000 x 6)	42,000/- (Rs.7000 x 6)
Transport to Hospital	10,000/-	10,000/-
Medical bills	1,58,457/-	1,58,457/-
Extra Nourishment	5,000/-	15,000/-
Attendant charges	2,000/-	5,500/-
Pain and sufferings, mental agony	30,000/-	40,000/-
Temporary loss of Income	21,000/- (Rs.7000 x 3)	56,000/- (Rs.14000 x 4)
Damage to cloth	1,000/-	1,000/-
Total	**Rs.2,57,457/-**	**Rs.3,27,957/-**
50% deduction		**Rs.1,63,978.50**

27. The compensation awarded by this Court in C.M.A.No.1887 of 2022 is tabulated hereunder:

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Heads of Compensation	*Awarded by the Tribunal (Amount in Rs.)*	*Awarded by this Court (Amount in Rs.)*
Partial Permanent Disability	30,000/- (Rs.5000 x 6)	42,000/- (Rs.7000 x 6)
Transport to Hospital	10,000/-	10,000/-
Medical bills	2,29,606/-	2,29,606/-
Future Medical expenses	60,000/-	60,000/-
Extra Nourishment	5,000/-	15,000/-
Attendant charges	3,000/-	5,500/-
Pain and sufferings, mental agony	30,000/-	40,000/-
Temporary loss of Income	21,000/- (Rs.7000 x 3)	56,000/- (Rs.14000 x 4)
Damage to cloths	1,000/-	1,000/-
Total	**Rs.3,89,606/-**	**Rs.4,59,106/-**
50% deduction		**Rs.2,29,553/-**

28. In the result, these Civil Miscellaneous Appeals are partly allowed and the award dated 06.04.2022 in M.C.O.P.Nos.290 and 289 of 2019 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Perambalur, are modified to the effect that the claimants are entitled to a compensation of Rs.1,63,978.50 and Rs.2,29,553/-, respectively together with interest @ 7.5% per annum from the date of claim petition till the date of deposit. The second respondent-Insurance Company is directed to deposit the modified/enhanced compensation amount, less amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the appellants / claimants are entitled to withdraw the

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same, less amount already withdrawn if any, on filing appropriate application before the Tribunal. The manner, mode and disbursement of compensation shall be as per the order of the Tribunal. No costs.

27-10-2026
(2/2)

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

To

The Motor Accidents Claims Tribunal
(Chief Judicial Magistrate), Perambalur.

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M.JOTHIRAMAN J.

RSI

CMA Nos. 1867 and 1887 OF 2022

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