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C.M.A.No.2184 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2026

CORAM

THE HONOURABLE MR.JUSTICE C.V. KARTHIKEYAN

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

C.M.A.No.2184 of 2022

&

C.M.P.No.16939 of 2022

The Branch Manager
M/s.Cholamandalam MS General Insurance Company Limited
Sarjapur CIE, No.19, C.R.Building
Bangalore Main Road
Sarjapur S.O
Bangalore City – 562 125

... Appellant

VS

1. Mr.Vediyappan
2. Mr.N.Vijayakumar
3. Mr.V.Nagamanickam
4. The Managing Director
Kavi Protein and Feed Pvt. Ltd.,
No.26, 2nd Floor, 1st Cross, Sindhi College
J.C.Road, Bangalore – 560 002
5. The Branch Manager
The Oriental Insurance Company Limited
B.O.2, No.281, Cross Cut Road
1st Floor, Opp. To I.A.B.Photo Studio
P.B.No.2907, Gandhipuram



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... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree in M.C.O.P.No.525 of 2019 dated 21.09.2021 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Court, Krishnagiri.

For Appellant : Mr.M.B.Raghavan
for Mr.Vediyappan

For Respondent : Mr.S.P.Yuvaraj for R1
R2 and R4 – No Appearance
R3 and R5 – Not ready in notice

JUDGMENT

[Judgment of the Court was delivered by **K.RAJASEKAR, J**]

Challenging the award of compensation in favour of the first respondent herein / claimant, Insurance Company has filed this appeal both on the grounds of negligence and quantum.

2. On 29.10.2018, at 12.30pm, the first respondent herein/claimant while driving a Eicher lorry bearing Registration No.KA-01-AA-3362 in the Krishnagiri-Rayakottai road, a Bolero Pickup vehicle bearing Registration No.TN-36-AW-6236, which came in a rash and negligent manner in the



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opposite direction, dashed against the Eicher lorry driven by the first respondent /claimant and caused severe injuries to him. After admitting himself in the hospital, the claimant has come forward with the claim petition seeking a compensation of Rs.50,00,000/- by invoking Section 166 of the Motor Vehicles Act, 1988.

3. The claim petition was resisted by the Insurance Company on the ground that the claimant was responsible for the accident and First Information Report and final report were also filed against him and further the compensation claimed under various heads is also on the higher side.

4. Before the Tribunal, the owner of the Bolero Pickup vehicle remained *ex parte* and Respondents 1 and 2/Respondents 2 and 3 herein, who are the owner and driver of the Bolero Pickup vehicle, filed the counter and contended that the claimant/first respondent herein has driven the lorry in a rash and negligent manner and caused the accident and hence, they are not liable to pay any compensation.



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5. Fifth respondent / Insurance Company of the Eicher lorry has also filed the counter and they contended that driver of the Bolero Pickup vehicle is responsible for the accident and hence, they are not liable to pay the compensation.

6. On the side of the first respondent/claimant, two witnesses were examined as PW1 and PW2 and Exs.P1 to P19 were marked. On the side of the respondents, RW1 was examined and Ex.R1 to R7 were marked.

7. The Tribunal, after considering the evidence placed on record, has accepted the case of the claimant that the driver of the Bolero Pickup vehicle has caused the accident for which the insurer of the Bolero Pickup vehicle is liable to pay the compensation. The Tribunal has also quantified the compensation and awarded a sum of Rs.44,21,313/- together with 7.5% interest as compensation and directed the third respondent/appellant Insurance Company of the Bolero Pickup vehicle to pay the compensation.



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8. Aggrieved over the compensation awarded by the Tribunal, the Insurance Company has filed this appeal challenging the negligence fixed on the driver of the Bolero Pickup vehicle and also questioning the quantum of compensation awarded.

9. The learned counsel for the appellant submitted that the police initially registered the first information report against the first respondent and after investigation, final report has also been filed only against the first respondent herein and this was not properly appreciated by the Tribunal and there are also witnesses examined to show that the first respondent / claimant has driven the vehicle in a negligent manner which resulted in the accident and hence, prayed to set aside the finding that fixing the negligence on the driver of the Bolero Pickup vehicle. He further submitted that the compensation awarded under various heads are also on the higher side and prays to modify the same.

10. The learned counsel for the first respondent/claimant submitted that though the monthly income fixed is on the lower side, they have not preferred any appeal. He would further submit that admittedly the claimant / first respondent was a lorry driver and due to the injuries suffered by him in



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the accident, he has lost 100% earning capacity and the Tribunal has rightly fixed the compensation and hence, prays for confirming the compensation amount.

11. We have considered the submissions made on either side and also perused the materials available on record.

12. It is seen that though initially FIR and final report were filed against the first respondent/claimant, as contended by the learned counsel for the appellant Insurance Company, however the first respondent/claimant has been acquitted from the criminal case vide judgment dated 21.10.2020 in C.C.No.05 of 2020, which has been marked as Ex.P13. Hence, we are of the view that reliance cannot be placed either on the FIR or on the final report filed against the claimant.

13. Before the Tribunal, the claimant himself was examined and he has stated that only the driver of the Bolero Pickup vehicle has driven the vehicle in a rash and negligent manner and dashed against the Eicher lorry. This evidence has not been contraverted or disputed by the first respondent



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by examining any of the witnesses. In the absence of any evidence to contradict the evidence of injured claimant, the evidence adduced by him has to be placed in the higher pedestal in the background of judgment rendered by the criminal Court acquitting him from the case. Hence, we are of the view that the liability fixed on the driver of the Bolero Pickup vehicle is proper and the same is hereby confirmed.

14. With regard to the quantum of compensation, admittedly, the Tribunal, based on the evidence adduced by the Transport Manager of the fourth respondent, has fixed the monthly income of the claimant at Rs.18,000/-. The Tribunal has properly appreciated the evidence of PW2 and found that the claimant worked under fourth respondent from 16.06.2017 to 28.10.2018 and he has been paid wages once in 15 days, however, it has been observed that there would be difference in payment of wages to the claimant and therefore, the Tribunal has decided to fix the income at Rs.18,000/-. We are of the view that notional income fixed by the Tribunal based on the documents and the evidence is reasonable and we are inclined to confirm the same.



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15. Similarly, it is also found that first respondent/claimant has suffered several injuries and he was also examined by the Medical Board and his disability has been assessed at 75%. The Tribunal, after taking note of the avocation and also the injuries sustained, has fixed the loss of earning capacity at 100%. We are of the view that the same is proper and accordingly loss of earning capacity fixed in terms of the judgment of Supreme Court in *Rajkumar Vs. Ajaykumar* reported in **2010 (2) TNMAC 581 (SC)** is proper and the same is confirmed. There are no other disputes with regard to the compensation awarded under other heads except the compensation awarded under the head “Disability”. Since the first respondent /claimant has been granted compensation under the head of loss of earning capacity, granting compensation separately under the head disability is not proper and hence, Rs.3,75,000/- granted under the head disability is cancelled. As far as the other heads, the compensation awarded by the Tribunal is confirmed. The modified compensation is as follows:

Sl.No.	Heads	Compensation (in Rs.)
1	Loss of Earning Capacity	35,10,000/-
2	Medical Expenses	3,90,313/-
3	Transportation Expenses	10,000/-
4	Nutrition and Attendant Charges	15,000/-



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5	Pain and Suffering	60,000/-
6	Social amenities	60,000/-
7	Damages to cloth and Property	1,000/-
	Total	Rs.40,46,313/-

Accordingly, this Civil Miscellaneous Appeal is partly allowed. The compensation of Rs.44,21,313/- awarded by the Tribunal is hereby reduced to Rs.40,46,313 /- [Rupees Forty Lakhs Forty Six Thousand Three Hundred and Thirteen only]. Appellant insurance company is directed to deposit the compensation amount of Rs.40,46,313 /-, less the amount already deposited, together with proportionate interest and cost, within a period of four weeks from the date of receipt a copy of this judgment. On such deposit, first respondent/ claimant is entitled to withdraw the same on due application. No costs. Consequently, the connected miscellaneous petition is closed.

[C.V.K., J] [K.R.S., J]
25.03.2026

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C.V. KARTHIKEYAN, J

and

K.RAJASEKAR, J

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To

1. The Motor Accidents Claims Tribunal
Special Subordinate Court, Krishnagiri
2. The Section Officer
VR Section
Madras High Court

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