



C.M.A.No.3862 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	06.01.2026
Pronounced on	06.03.2026

CORAM

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI,J.

C.M.A.No. 3862 of 2025

C.M.P.No. 32394 of 2025

The Branch Manager,
National Insurance Company Limited.
No.110, 2nd Street, J.N.Street,
Puducherry

...Appellant

Vs.

1. Hariharan
2. Arumugham

...Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, praying to set aside the decretal order and judgment passed on 12.11.2024 on the file of the Additional Motor Accident Claims Tribunal, Pondicherry, in M.C.O.P. No.141 of 2024.

For Appellant	: Ms.N.B.Surekha
For Respondents	: Mr.E.Iyappan for R1
	R2- Notice Dispensed with



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JUDGMENT

The captioned CMA is filed against the order dated 12.11.2024 on the file of the Additional Motor Accident Claims Tribunal, Pondicherry, in M.C.O.P. No.141 of 2024.

3. The Insurance Company has come up with this appeal. The appellant challenges the award of compensation and the liability fixed upon them.

4.The case of the 1st respondent/ claimant is that, on 29.09.2023 at about 2.30 p.m, when the 1strespondent/claimant was riding his Honda Dio motorcycle bearing Reg.No. PY 01 VB 8350 along with his relative namely Selvarani, w/o Muthu and Sharmila D/o Muthu at Pondicherry - Cuddalore main road near Sasi Hotel, Reddychavady, towards north to south direction. At the same time, on the same main road, in front of the petitioner's motorcycle, the driver of the 2nd respondent's vehicle Maruti Suzuki car bearing Registration No.TN-38-AW-6009,drove in a very rash and negligent manner without hooting horn and suddenly turned towards west and dashed against the petitioner's motorcylce.Due to the sudden impact, the petitioner and the pillion

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riders stumbled and fell down on the road. The petitioner and Sharmila were severely injured. Hence, this claim petition is filed.

5. As a result of the accident, the claimant/1st respondent sustained a fracture on left shaft of femur and tibia and other multiple injuries. The petitioner was working in a Saloon shop and was earning Rs.900/- per day before the accident. Due to the said accident, the petitioner suffered permanent disability and he could not do his regular work. Hence, the petitioner has claimed for Rs.70,00,000/- as compensation.

6. The Appellant/Insurance Company resisted the claim stating that the accident occurred only due to the negligence of the petitioner who crossed the road without caring about the on going vehicles and collided with the 1st respondent's car. The petitioner had to prove that the offending vehicle was insured with the respondent's company. It is further contended that the 2nd respondent / owner of the vehicle did not possess a valid driving license at the time of accident. Therefore, the company must be exonerated from liability, and prays for dismissal of the claim petition against the Insurance Company.



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7. On the side of the petitioner, the petitioner was examined as P.W.1 and one Shanmugapriya was examined as P.W.2 and 9 documents were marked. The disability certificate issued by the Medical Board was marked as Ex.C1. The Tribunal, on a consideration of the materials on record, awarded a sum of Rs.21,10,000/- as compensation. Aggrieved by the quantum of compensation and fastening 90% liability upon the appellant/Insurance Company, they have preferred the present appeal.

8.Ms.N.B.Sureka, learned counsel appearing for the appellant/ Insurance Company assailed the award on various grounds. She would submit that the First Information Report itself has been lodged against the rider of the motor cycle. The investigation conducted by the Police would reveal that the petitioner was riding the motorcycle in triples without wearing helmet and without driving license, and was riding the motorcycle in a rash and negligent manner without maintaining sufficient space and hit the car. Hence, the Final report was closed as 'Mistake of Fact'. Therefore, the learned Tribunal ought to have fixed the negligence on the rider of the motorcycle. However, the Tribunal erroneously fixed 90% negligence upon the driver of the car bearing Registration No. TN 38 AW 6009, insured by the appellant/ Insurance



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Company. Further, the discharge summary reveals that the injured was hospitalized only for 19 days, while so, the Tribunal erred in awarding a sum of Rs.18,14,400/- adopting multiplier method to arrive at the compensation for permanent disability and for loss of earning power. Her further contention is that, the Medical Board has assessed 51 % disability without any basis. The Tribunal ought to have adopted percentage method instead of multiplier method. The Tribunal erroneously awarded a huge amount as compensation under the heads pain and suffering, medical expenses, loss of amenities and loss of marriage prospects without any basis, warrants interference by this Court.

9.Per contra, Mr.E.Iyappan, learned counsel for the 1st respondent/claimant would submit that, taking into account all the relevant factors, the Tribunal has awarded a reasonable compensation. The evidence of the claimant and of the eye witness would go to show that, the driver of the offending vehicle was at fault. During the cross examination of P.W.2, she has categorically stated that the offending vehicle of the 2nd respondent herein, suddenly turned towards right for taking a 'U' turn and hit the claimant's vehicle. Hence, the evidence of P.W.2 eyewitness corroborated the evidence of



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PW.1. Therefore, the fact that the FIR was closed by the Police as 'Mistake of Fact' cannot be taken into consideration. The Tribunal has considered all relevant facts and awarded just compensation, warrants any interference by this Court.

10.Heard on both sides and records perused.

11.When an FIR in MACT case is closed by the Police as a 'Mistake of Fact', it does not automatically result in the dismissal of the claim petition and is binding on the Tribunal. The Motor Accident Claims Tribunal is not bound by the investigation report of the Police. The Tribunal is required to independently examine the evidence, including eye witnesses, the motor vehicle Inspector's report, and medical records to determine liability. In criminal cases, the standard of proof is, 'beyond reasonable doubt' and in civil claims, the standard of proof is 'preponderance of probabilities'. The claimant can present independent, reliable evidence proving that the accident was caused by the vehicle in question, the Tribunal can award compensation despite the Police closure report. The burden is on the Insurance Company to provide independent, reliable evidence to support their case.



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12. In the present case, the appellant / Insurance Company failed to prove that, the claimant was at fault. The Tribunal after appreciating the materials on record and fixed 10% contributory negligence on the part of the claimant, holding that if the petitioner had maintained sufficient distance between himself and the offending vehicle, he could have avoided the accident and that the petitioner's negligence also played some part in the accident. Moreover, the driver of the offending vehicle was not examined to prove the manner of accident. All the above goes to show that the driver of the car was rash and negligent in driving the vehicle and caused the accident. If the offending vehicle had been driven cautiously, the accident could have been avoided. No infirmity or perversity found in the said findings of the Tribunal in this regard.

13. On the question of adopting multiplier method by the Tribunal to assess compensation, the Tribunal has considered the nature of work of the petitioner and the functional disability of the petitioner, fixed the disability at 40% though the Medical Board assessed the disability at 51%, and adopted multiplier method to assess the compensation. For a hair stylist, a 40% leg



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disability is considered significant, as it directly affects their ability to stand for long hours, move around clients, and perform their job, potentially leading to a high percentage of earning capacity. In the present case, the Tribunal after determining the "functional disability", how much the injury impairs the stylist's actual ability to work rightly adopted the multiplier method for 40% permanent disability caused by a leg fracture resulted in a functional disability that affected the claimant's ability to earn his livelihood.

14. Considering the above facts, adopting the multiplier method and awarding a sum of Rs.18,14,400/- by the Tribunal is found to be just and reasonable. However, the compensation awarded by the Tribunal under the heads pain and suffering, medical expenses, attender charges, extra nourishment, loss of amenities and loss of marriage prospects are found to be excessive. Moreover, there is no proof for medical expenses.

15. Therefore, this Court finds it reasonable to modify the compensation as under:



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S.No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted
1.	Pain and Suffering	2,50,000/-	1,00,000/-	Reduced
2.	Future loss of income	18,14,400/-	18,14,400/-	Confirmed
3.	Loss of income	90,000/-	90,000/-	Confirmed
4.	Medical Expenses	20,000/-	-	Set aside
5.	Transport Charges	20,000/-	10,000/-	Reduced
6.	Attender charges	40,000/-	10,000/-	Reduced
7.	Extra Nourishment	30,000/-	10,000/-	Reduced
8.	Loss of Marriage Prospects	50,000/-	25,000/-	Reduced
9.	Loss of amenities	25,000/-	5,000/-	Reduced
	Total	23,39,400/-	20,64,400/-	Reduced by 2,52,040
	Deducting Contributory negligence at 10%	21,05,460/-	18,57,960/-	
		Rounded off 21,10,000/-		

15.The Civil Miscellaneous Appeal is partly allowed. No costs.
Consequently connected miscellaneous petition is closed.

i.The quantum of compensation awarded by the Tribunal is scaled down



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from Rs.21,10,000/- to Rs.18,57,960/-

ii. The appellant/Insurance company is directed to deposit a sum of Rs.18,57,960/- (less the amount already deposited) with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, within a period of four weeks from the date of receipt of a copy of this order, to the credit of M.C.O.P. No.141 of 2024 on the file of the Additional Motor Accident Claims Tribunal, Pondicherry. The appellant / Insurance Company is at liberty to withdraw the excess amount, deposited by them, over and above the compensation awarded by this court.

iii. On such deposit being made, the 1st respondent / claimant is at liberty to withdraw the same after filing a proper petition for withdrawal.

06.03.2026

vsn

Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order



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To

1. The Additional Judge,
Motor Accident Claims Tribunal, Pondicherry
2. The Section Officer,
VR Section,
High Court, Madras.



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K.GOVINDARAJAN THILAKAVADI, J.

vsn

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and C.M.P.No.32394 of 2025

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