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C.M.A.Nos.3386 & 1649 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2026

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

AND

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

C.M.A.Nos.3386 & 1649 of 2025

and

C.M.P.No.27959 of 2025

C.M.A.No.3386 of 2025 :

The Manager,
Cholamandalam MS General
Insurance Co. Ltd.,
Motor Third Party Claims,
No.154, Shawallace Building,
II Floor, Thambu Chetty Street,
Chennai – 001.

... Appellant

Vs.

1.Janakiraman
(Respondent suffers from loss of
memory and speech)
Represented by his wife Ramya

2.E.Govindaswamy

... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed by the Motor Accident Claims Tribunal/II Court of Small Causes, Chennai, in
Page 1 of 17



C.M.A.Nos.3386 & 1649 of 2025

M.C.O.P.No.3290 of 2020, dated 07.02.2025.

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For Appellant : Mrs.R.Sree Vidhya

For R1 : Mr.C.Munusamy

For R2 : No appearance

C.M.A.No.1649 of 2025 :

Janakiraman

(Since loss of memory and speech)

Represented by his wife Ramya

... Appellant

Vs.

1.E.Govindaswamy

(R1 was set ex parte in the trial Court)

2.The Manager,

Cholamandalam MS General

Insurance Co. Ltd.,

Motor Third Party Claims,

No.154, Shawallace Building,

II Floor, Thambu Chetty Street,

Chennai – 001.

... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed by the Motor Accident Claims Tribunal/II Court of Small Causes, Chennai, in M.C.O.P.No.3290 of 2020, dated 07.02.2025.



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C.M.A.Nos.3386 & 1649 of 2025

For Appellant : Mr.C.Munusamy
For R2 : Mrs.R.Sree Vidhya
For R1 : No appearance

COMMON JUDGMENT

(Judgment was delivered by **N. SATHISH KUMAR, J.**)

Challenging the Award passed by the Motor Accident Claims Tribunal/II Court of Small Causes, Chennai, (hereinafter referred to as “the Tribunal” for brevity) in M.C.O.P.No.3290 of 2020, dated 07.02.2025, the Insurance Company has filed C.M.A.No.3386 of 2025 and the claimant has filed C.M.A.No.1649 of 2025.

2.For the sake of convenience, the parties will be referred to as per their rank in C.M.A.No.3290 of 2020.

3.Brief facts of the case are as follows :

On 05.10.2000 at about 19.30 p.m., when the 1st respondent, aged about 37 years, was riding his motor cycle bearing Registration No.TN-20-DZ-7346 along K.G.Kandigai to Nochi Road, near Old Saibaba Ground, the

Page 3 of 17



rider of the motor cycle belonging to the 2nd respondent bearing Registration No.TN-20-DZ-7705 drove the motor cycle in a rash and negligent manner, endangering public safety, and applied sudden break and suddenly stopped the motor cycle without any indication, as a result of which, the 1st respondent dashed behind the 2nd respondent's motor cycle, fell down, and sustained severe head injuries.

4.It is the contention of the 1st respondent that he became permanently disabled due to the accident and is not able to do any work and he continues to take treatment as out-patient all along. It is stated by the 1st respondent that he is an agriculturist and is earning an income of Rs.50,000/- per month. Since the 1st respondent suffers from loss of memory and speech, the 1st respondent, represented by his wife Ramya, has filed the claim petition in M.C.O.P.No.3290 of 2020 before the Tribunal, claiming a total compensation of Rs.90,00,000/-.

5.Before the Tribunal, the 2nd respondent, owner of the motor cycle bearing Registration No.TN-20-DZ-7705, remained *ex parte*.



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6.The appellant, who is the Insurer of the motor cycle belonging to the 2nd respondent, contested the case before the Tribunal. Besides disputing the age, occupation and monthly income of the claimant, it was the contention of the appellant Insurance Company that the 2nd respondent's motor cycle was not involved in the accident at all. It was their further contention that the claimant was solely responsible for the accident. Hence, the appellant disputed the negligence aspect also.

7.On the side of the claimant, P.W.1 to P.W.4 were examined and Exs.P1 to P24 were marked. On the side of the respondents before the Tribunal, R.W.1 was examined and Exs.R1 and R2 were marked. Besides, the Disability Certificate issued by the Medical Board was marked as Ex.C1.

8.The Tribunal, after considering the oral and documentary evidence on record, held that both the claimant and the rider of the 2nd respondent's motor cycle have contributed for the accident and hence, 40% negligence has been fixed on the claimant and 60% of the negligence has been fixed on the 2nd respondent. The Tribunal fastened the liability on the appellant, who



C.M.A.Nos.3386 & 1649 of 2025

is the Insurer of the 2nd respondent's motor cycle to pay the 60% compensation amount. Further, the Tribunal fixed the notional income of the claimant at Rs.15,200/- per month and considering the medical records and condition of the claimant, fixed the disability at 100% and by adopting multiplier method, arrived at the loss of income at Rs.38,30,400/-. Apart from that, the Tribunal has also awarded various amounts under other heads as follows :

<i>S. No.</i>	<i>Heads</i>	<i>Amount Awarded by the Tribunal</i>
1.	Loss of Income	Rs.38,30,400/-
2.	Transport to Hospital	Rs.20,000/-
3.	Extra Nourishment	Rs.25,000/-
4.	Attender's charges	Rs.5,40,000/-
5.	Pain and sufferings, mental agony	Rs.1,00,000/-
6.	Loss of amenities	Rs.2,00,000/-
7.	Medical Expenses	Rs.13,59,122/-
8.	Loss of Marital Life	Rs.1,00,000/-
9.	Future medical expenses	Rs.50,000/-
10.	Damage to cloth	Rs.1,000/-
	Total	Rs.62,25,522/-
	Less : 40% of contributory negligence	Rs.24,90,208/-
	Total	Rs.37,35,314/-
	Rounded off to	Rs.37,35,500/-



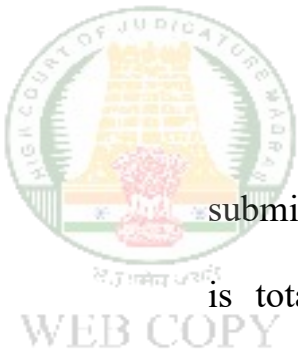
C.M.A.Nos.3386 & 1649 of 2025

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9. Aggrieved by the Award of the Tribunal, the Insurance Company has filed the Appeal in C.M.A.No.3386 of 2025 and the claimant has filed the Appeal in C.M.A.No.1649 of 2025 seeking enhancement of compensation.

10. Learned counsel for the appellant Insurance Company would submit that the Tribunal, having held that, if the claimant had driven the vehicle in a moderate speed observing safe distance, the accident could have been avoided, has fixed higher negligence on the motor cycle of the 2nd respondent. It is her contention that the Tribunal ought to have fixed equal negligence on both the vehicles. It is her further contention that the FIR (Ex.P1) stands as against the claimant and therefore, contributing higher negligence on the 2nd respondent's motor cycle, requires interference.

11. Whereas, the learned counsel for the 1st respondent/claimant would submit that the eye-witness (P.W.4) has clearly spoken about the manner in which the accident occurred which shows that the rider of the motor cycle of the 2nd respondent was solely responsible for the accident. He would further



submit that the claimant is still under treatment and he is bed ridden and he is totally not able to move. Therefore, it is his contention that the compensation awarded by the Tribunal towards future medical expenses needs enhancement.

12.Heard the learned counsel on either side and perused the entire materials available on record.

13.The Tribunal has fixed 40% contributory negligence on the claimant on the basis of the FIR (Ex.P1). It is relevant to note that the FIR (Ex.P1) has been lodged by the 2nd respondent, wherein, the complainant has stated that, due to the glaring high beam light of a lorry coming in the opposite direction, he applied brake, as a result of which, the claimant's motor cycle hit his motor cycle on its rear side. Admittedly, the injured has suffered serious head injuries and fell unconscious and he was rushed to the hospital. It is relevant to note that the FIR and statement given by the 2nd respondent in the FIR cannot be taken as a gospel truth to fix contributory negligence on the parties. The evidence of the eye-witness (P.W.4) clearly indicates that, only due to the sudden application of brake by the 2nd



respondent's motor cycle, the 1st respondent/claimant could not control his two-wheeler, as a result of which, the claimant hit the 2nd respondent's two wheeler on the rear side. Merely because the statement is found otherwise as against the claimant in the FIR (Ex.P1), the same cannot be a determining factor. The negligence aspect has to be analysed in the context of evidence adduced. The eye-witness (P.W.4) has clearly spoken about the negligence on the part of the rider of the 2nd respondent's vehicle. Though it is stated in the FIR (Ex.P1) that, due to the glaring of the heavy beam light used by the lorry coming in the opposite direction, he has suddenly stopped the vehicle which resulted in the accident, to establish that fact, the rider of the 2nd respondent's motor cycle has not been examined. In such view of the matter, we are of the view that the contributory negligence fixed by the Tribunal on the 1st respondent/claimant at 40%, is excessive. However, taking note of the fact that the injured also ought to have maintained safe distance, the contributory negligence on the claimant fixed at 40% is reduced to 15%.

14.Since the 1st respondent/claimant has not produced any proof of income, the Tribunal has fixed the notional income at Rs.15,166/- rounded



C.M.A.Nos.3386 & 1649 of 2025

off to Rs.15,200/- per month as per the judgment of the Division Bench of this Court in *Andal v. Avinav Kannan* reported in **2019 (1) TNMAC 54**, which, in our view, does not require any interference. The Tribunal, in the light of the dictum of the Hon'ble Supreme Court in *National Insurance Company Limited v. Pranay Sethi and others* reported in **2017 (2) TNMAC 609 (SC)**, and considering the age of the petitioner, has added 40% towards future prospects and calculated the monthly income as Rs.21,280/-. Further, as per the dictum of the Hon'ble Supreme Court in *Sarala Verma and others v. Delhi Transport Corporation and another* reported in **2009 (2) TNMAC 1**, considering the age of the injured, the Tribunal has adopted the multiplier of 15 for awarding the compensation, which, in the view of this Court, is just and reasonable and does not require any interference.

15.However, the Tribunal, having adopted the multiplier method and applied the multiplier of 15 as per the age of the injured, has awarded a sum of Rs.2,00,000/- towards loss of amenities, which, in the view of this Court, is unwarranted. Therefore, the sum of Rs.2,00,000/- awarded by the Tribunal for loss of amenities is deleted.



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16.Further, the Doctor (P.W.2) who has given treatment to the claimant, has deposed that the claimant has sustained fracture on the head and blood clot in the brain region. Though he was given treatment, the claimant could not recover his consciousness to the expected level even after discharge from the hospital. Both his right hands and legs have suffered functional disability and while he was discharged from the hospital, he was in not in a position to speak. The claimant has produced the discharge summary (Exs.P2 and P3), medical records (Exs.P15 and P16) to substantiate the same. Further, the Disability Certificate issued by the Medical Board has also been marked as Ex.C1. The Tribunal, on considering the same has fixed the disability at 100%. Finding force in the contention of the learned counsel for the 1st respondent/claimant that the claimant is still under treatment, which is substantiated by the evidence of the Doctor (P.W.2) and the medical records and the Disability Certificate (Ex.C1), we are of the view that the claimant would require continuous medical treatment even in future and therefore, the amount awarded towards future medical expenses is enhanced from Rs.50,000/- to Rs.2,50,000/-.



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17. In view of the above, the modified Award is as follows :

S. No.	Heads	Amount Awarded by the Tribunal
1.	Loss of Income (Rs.21,280 x 12 x 15 multiplier x 100% disability)	Rs.38,30,400/-
2.	Transport to Hospital	Rs.20,000/-
3.	Extra Nourishment	Rs.25,000/-
4.	Attender's charges	Rs.5,40,000/-
5.	Pain and sufferings, mental agony	Rs.1,00,000/-
6.	Medical Expenses	Rs.13,59,122/-
7.	Loss of Marital Life	Rs.1,00,000/-
8.	Future medical expenses	Rs.2,50,000/-
9.	Damage to cloth	Rs.1,000/-
	Total	Rs.62,25,522/-
	Less : 15% of contributory negligence	Rs.9,33,828/-
	Total	Rs.52,91,694/-
	Rounded off to	Rs.52,91,700/-

18. Accordingly, the modified Award amount of Rs.52,91,700/- (Rupees Fifty Two Lakhs Ninety One Thousand and Seven Hundred only) shall be deposited by the appellant Insurance Company before the Tribunal, within a period of three weeks from today. Having regard to the medical condition of the claimant and the specific contention of the claimant that he requires future medical treatment, after such deposit being made by the



C.M.A.Nos.3386 & 1649 of 2025

appellant Insurance Company, the wife of the 1st respondent/claimant will be entitled to withdraw only 25% of the amount and the remaining amount shall be deposited in an interest bearing deposit in any one of the Nationalised Banks in the name of the 1st respondent/claimant, and the accrued interest shall be released to meet out the regular medical expenses of the injured.

19. Accordingly, the Appeal filed by the claimant in C.M.A.No.1649 of 2025 is partly allowed and the Appeal filed by the Insurance Company in C.M.A.No.3386 of 2025 is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(N.S.K., J.) (R.S.V., J.)
29.01.2026

mkn

Internet : Yes
Index : Yes / No
Speaking Order / Nonspeaking order
Neutral Citation : Yes

To

1. The II Judge,
Court of Small Causes,
(Motor Accident Claims Tribunal)
Chennai.

2. The Manager,

Page 13 of 17



C.M.A.Nos.3386 & 1649 of 2025

Cholamandalam MS General Insurance Co. Ltd.,
Motor Third Party Claims,
No.154, Shawallace Building,
II Floor, Thambu Chetty Street,
Chennai – 101.

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

N. SATHISH KUMAR, J.
and
R. SAKTHIVEL, J.

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C.M.A.Nos.3386 & 1649 of 2025



C.M.A.Nos.3386 & 1649 of 2025

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29.01.2026

CMA.Nos.3386 & 1649 of 2025

N.SATHISH KUMAR, J.
and
R.SAKTHIVEL, J.

These cases have been listed under the caption, for being mentioned at the instance of the learned counsel for the claimant.

2. Today, Mr.C.Munusamy, learned counsel for the claimant submitted that interest is not covered in the common judgment dated 29.01.2026 and hence, seeks to incorporate the following correction in the common judgment dated 29.01.2026.

3. Accordingly, paragraph No.18 shall read as follows:-

*Accordingly, the modified Award amount of Rs.52,91,700/~ (Rupees Fifty Two Lakhs Ninety One Thousand and Seven Hundred only) **along with 7.5% interest**, shall be deposited by the appellant Insurance Company before the Tribunal, **less any deposit if already made**, within a period of three weeks from today. Having regard to the medical condition of the claimant and the specific contention of the claimant that he requires future medical treatment, after such deposit being made by the appellant Insurance Company, the wife of the 1st respondent/claimant will be entitled to withdraw only 25% of the amount and the remaining amount shall be*



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C.M.A.Nos.3386 & 1649 of 2025

deposited in an interest bearing deposit in any one of the Nationalised Banks in the name of the 1st respondent/claimant, and the accrued interest shall be released to meet out the regular medical expenses of the injured.

4. Except the above modifications, the common judgment dated 29.01.2026 remains intact. The Registry shall carry out the above modifications and issue order copies afresh.

(N.S.K., J.) (R.S.V., J.)
27.02.2026

dhk

N.SATHISH KUMAR, J.
and
R.SAKTHIVEL, J.



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C.M.A.Nos.3386 & 1649 of 2025

CMA.Nos.3386 & 1649 of 2025

27.02.2026