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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. 2988 of 2023

CNR: {HCMA012117922023}

Tr.Sureshkumar

..Appellant(s)

Vs

1. Laksmanan

2. Anandhakumar

3. New India Assurance Co. Ltd.
   Kumaran Shopping Complex,
   Kumaran Road, Tirupur

..Respondent(s)

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to allow the claim in MCOP No.221 of 2018 dated 11.09.2023, on the file of (In the Court of Exclusive Motor Accident Claims Tribunal), Tirupur as prayed for with interest and cost.

For Appellant(s): Mr.K.Varadhakamaraj

For Respondent(s): R1 & R2 – Dispensed with

Mr.S.Dhakshnamoorthy
(For R3)

JUDGMENT

For the sake of convenience, the parties are referred to herein by their respective ranks before the Tribunal.

2. The unsuccessful claimant has preferred the present appeal,

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challenging the dismissal of the claim petition. The claim petition was filed under Section 166 of the Motor Vehicles Act [hereinafter referred to as 'the MV Act'], seeking compensation for the injuries sustained by the claimant in a road accident.

3. According to the claimant, on 20.11.2017, at about 09.00 p.m., while he was riding his motorcycle bearing Registration No. TN 78 Z 3066 near Kaniyur Toll Gate on the Avinashi–Coimbatore Road, a Tata Ace van bearing Registration No. TN 38 AK 7579, driven by the first respondent in a rash and negligent manner, suddenly turned towards the left without having regard to the traffic and hit the claimant's motorcycle. Due to the impact, the claimant sustained grievous injuries all over his body.

4. The first respondent is the driver of the offending vehicle and the second respondent is the owner of the vehicle. Both remained absent and were set ex parte before the Tribunal.

5. The third respondent/Insurance Company filed a counter statement, wherein it denied the manner of the accident. It was contended that there was a delay of four days in filing the FIR; that the first respondent did not possess an effective driving licence to drive the Tata Ace vehicle at the time of the accident; and that the Tata Ace vehicle did not have a valid fitness certificate. It

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was further contended that the accident occurred solely due to the rash and negligent act of the claimant and that the third respondent was, therefore, not liable to pay compensation.

6. Before the Tribunal, on behalf of the claimant, the claimant himself was examined as P.W.1 and Exs.P1 to P12 were marked. The disability certificate issued by the Medical Board was marked as Ex.C1. On behalf of the third respondent, R.W.1 to R.W.3 were examined and Exs.R1 to R5 and Exs.X1 to X4 were marked.

7. On appreciation of the evidence adduced on either side, the Tribunal found that, as per Ex.P2, a charge sheet had been laid against the first respondent. However, the Tribunal observed that the records prepared by the Police could not be treated as conclusive proof and that evidence had to be adduced to establish negligence. In the absence of proof of negligence on the part of the offending vehicle's driver, the Tribunal concluded that the claimant was not entitled to seek compensation and dismissed the claim petition in its entirety.

8. Aggrieved by the same, the claimant has preferred the present appeal.

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9. The learned counsel appearing for the appellant/claimant would submit that the Tribunal went wrong in dismissing the claim petition on the ground that the appellant had failed to maintain a safe distance and was negligent. The Tribunal ought to have considered the FIR and the final report, while determining negligence. It was further submitted that the Tribunal ought to have fixed the entire negligence on the first respondent, particularly when the driver of the offending vehicle had not entered the witness box to depose about the manner of the accident.

10. Per contra, the learned counsel appearing for the respondent/Insurance Company would submit that, upon appreciation of the evidence adduced on either side, the Tribunal rightly concluded that the claimant had failed to establish negligence and was not entitled to seek compensation. Accordingly, the Tribunal rightly dismissed the claim petition.

11. This Court has considered the submissions advanced by the learned counsel appearing on either side and perused the records carefully.

12. It is relevant to note that the present appeal challenges the dismissal of the claim petition on the issue of negligence. As per the FIR and the charge sheet, the first respondent was the driver of the offending vehicle and a criminal case was registered against him. The first respondent driver pleaded guilty and

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negligence and paid fine. A final report was also laid against the first respondent's driver.

13. It is further relevant to note that, in order to prove the negligence on the part of the claimant, the driver of the offending vehicle did not enter the witness box to depose about the manner of the accident. In such circumstances, considering the evidence of P.W.1 and the fact that a criminal case was registered against the driver of the offending vehicle, the dismissal of the claim petition in its entirety on the ground that the claimant had failed to maintain a safe distance is unsustainable in law.

14. This Court is of the considered view that the evidence of P.W.1 cannot be disregarded without assigning valid reasons. However, considering the evidence available on record, this Court is inclined to fix 50% negligence on the part of the claimant and 50% negligence on the part of the driver of the offending vehicle.

15. For compensation to the claimant, a perusal of Ex.C1 shows that the claimant was referred to the Medical Board, which assessed his disability at 32%. Considering the fact that the accident took place on 20.11.2017, that the claimant was aged about 38 years at the time of the accident and that he

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sustained a fracture of the right leg, this Court is inclined to fix a sum of Rs.7,000/- per percentage of disability.

16. Accordingly, the claimant is entitled to a sum of Rs.2,24,000/- (32% × Rs.7,000/-) under the head of disability.

17. It is also relevant to note that, according to the claimant, he was earning Rs.15,000/- per month as a Human Resources Officer at KPR Mills Limited and was unable to continue his avocation due to the injuries sustained in the accident. Considering the evidence of P.W.1, this Court is inclined to award three months' salary towards loss of income. Accordingly, a sum of Rs.45,000/- is awarded under the head of loss of income.

18. Considering the nature of the injuries sustained by the claimant and the number of days he underwent treatment as an inpatient, this Court awards a sum of Rs.20,000/- towards pain and suffering, a sum of Rs.10,000/- towards extra nourishment and a sum of Rs.10,000/- towards transportation charges.

19. A perusal of the medical bills produced by the claimant which is marked as Ex.P11 shows that the claimant had incurred medical expenses for the treatment of the injuries sustained in the accident. The medical expenses

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supported by the bills appear to be genuine and reasonable. Therefore, this Court is inclined to award a sum of Rs.93,723/- towards medical expenses.

20. Considering the nature of the injuries sustained by the claimant and the treatment undergone by him as an inpatient, the claimant would have required assistance during the period of treatment. Therefore, this Court is inclined to award a sum of Rs.10,000/- towards attendant charges.

21. It is relevant to note that R.W.2, the Superintendent of the Regional Transport Office, Sulur, deposed that the fitness certificate of the offending vehicle bearing Registration No. TN 38 AK 7579 had expired on 26.09.2017 and was renewed only on 28.12.2017.

22. It is relevant to note that the accident took place on 20.11.2017. From the evidence of R.W.2, it is clear that the offending vehicle did not possess a valid fitness certificate on the date of the accident. In such circumstances, the owner of the vehicle had violated the policy conditions and was liable to pay compensation to the claimant.

23. The appellant/injured claimant is a third party and is entitled to seek compensation in respect of the injuries sustained in the accident. Since the offending vehicle did not possess a valid fitness certificate on the date of the

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accident, this Court is of the considered opinion that the Insurance Company is liable to pay the compensation to the claimant in the first instance and thereafter recover the same from the owner of the offending vehicle.

24. The claimant is entitled to compensation under the following heads:

S.No	***Head of Compensation***	***Amount awarded by the Tribunal (Rs)***	***Amount awarded by this Court (Rs)***
1.	Disability (32% × Rs.7,000/-)	-	Rs.2,24,000/-
2.	Medical Expenses	-	Rs.93,723/-
2.	Loss of Income	-	Rs.45,000/-
3.	Pain and Suffering	-	Rs.20,000/-
4.	Extra Nourishment	-	Rs.10,000/-
	Transport	-	Rs.10,000/-
	Attender Charges	-	Rs.10,000/-
	Total	-	**Rs.4,12,723/-/-**

Less: 50% towards contributory negligence

(Rs.4,12,723/- x 50/100) : Rs.2,06,361/-

Net Compensation Payable : Rs.2,06,361/-

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25. In the light of the above discussion, this Court is of the considered opinion that the claimant is entitled to a total compensation of Rs.2,06,361/-. However, as 50% negligence has been fixed on the claimant, he is entitled to receive only 50% of the total compensation, namely, Rs.2,06,361/- (Rupees Two Lakhs Six Thousand Three Hundred and Sixty one only)

26. In the result, the CMA.No.2988 of 2023 is allowed. The order passed by the Tribunal, dismissing the Claim Petition in MCOP No.221 of 2018 dated 11.09.2023, on the file of (In the Court of Exclusive Motor Accident Claims Tribunal), Tirupur, is set aside. Since the offending vehicle did not possess a valid fitness certificate on the date of the accident, the 3rd respondent/Insurance Company is directed to deposit the compensation amount of Rs.2,06,361/- (Rupees Two Lakhs Six Thousand Three Hundred and Sixty one only) together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit, within a period of six (6) weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.221 of 2018 on the file of the Exclusive Hon'ble Motor Accident Claims Tribunal, Tirupur. On such deposit, the claimant is permitted to withdraw the compensation amount, along with accrued interest and costs, if any. The amount so deposited shall be transferred to the bank account of the claimant by way of NEFT/RTGS. Thereafter, the 3rd respondent / Insurance Company is at liberty to recover the said amount from

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the owner of the offending vehicle, namely, the second respondent, in accordance with law. However, it is made clear that the claimant is not entitled for interest for the period of delay, if any, as ordered by this Court earlier, if any. The appellant is directed to pay the necessary Court fee, if any, on the enhanced compensation. No costs.

27-10-2026

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

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To

1.The learned Judge,
(In the Court of Exclusive
Motor Accident Claims Tribunal),
Tirupur.

2.The Section Officer,
V.R.Section, High Court,
Madras.

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M.JOTHIRAMAN, J.

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