

C.M.A.Nos.882 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on	25.02.2026
Pronounced on:	29.04.2026

CORAM

THE HONOURABLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI

C.M.A.No.882 of 2023

and C.M.P.No.8197 of 2023

The Manager,

M/s. United India Insurance Co. Ltd.,

Third Party Service Hub,

Plot No.35, 36, 37, A.R. Plaza, Balaji Nagar Extension,

Saram, Pondicherry – 605 011.

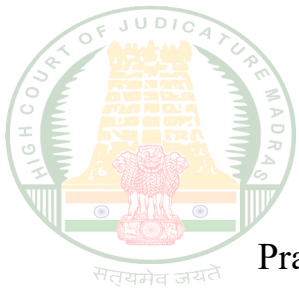
...Appellant

Vs.

1. S. Manibalan,

2. M. Gangaiamaran,

...Respondents



C.M.A.Nos.882 of 2023

Prayer : This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the award passed in M.C.O.P.No.2470 of 2018 dated 16.08.2022 on the file of the Motor Accident Claims Tribunal (Principal Sub Judge), Cuddalore.

For Appellant : Ms. R. Rathna Thara

For Respondents : Ms. Ramya V. Rao for R1

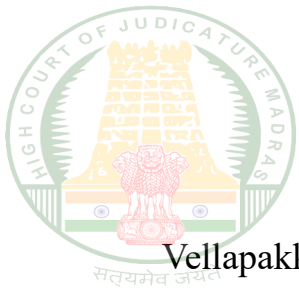
R2 – Exparte

JUDGMENT

This Civil Miscellaneous Appeal is preferred by the 2nd respondent/Insurance Company against the award in M.C.O.P.No.2470 of 2018 dated 16.08.2022 on the file of the Motor Accident Claims Tribunal (Principal Sub Judge), Cuddalore.

2. For the sake of convenience, the parties are referred to as per their ranking in the claim petition.

3. Shortly stated, on 07.01.2018 at about 23.00 hours, the petitioner S. Manibalan was proceeding as a pillion rider on the TVS Apache motorcycle bearing Registration No. PY-01-BY-7342 belonging to the 1st respondent M. Gangaiamaran, travelling from West to East on the customs road at



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Vellapakkam turning. The 1st respondent rode the motorcycle at great speed, in

a rash and negligent manner, and hit a stone on the road, causing the petitioner to fall and sustain comminuted fracture of the shaft of the right humerus, comminuted fracture of both bones of the right forearm, blunt injury on the abdomen, liver laceration Grade 3, injuries on the forehead and right hand, tenderness on the right lumbar and epigastric regions, and multiple grievous injuries all over the body. The petitioner was treated at Government Head Quarters Hospital, Cuddalore, JIPMER Hospital, Cuddalore, and Abiraami Hospital, Cuddalore, where surgery was performed on 18.01.2018. The Medical Board issued a disability certificate (Ex.C1) assessing the whole body disability at 38%.

4. The Claims Tribunal, after framing necessary issues and on analyzing the oral and documentary evidence on record, concluded that the accident was caused solely due to the rash and negligent driving of the 1st respondent and that the 2nd respondent/Insurance Company is liable to pay compensation. The Tribunal, taking the notional income at Rs.9,000/- per month, the age of the petitioner as 22 years at the time of the accident, the disability at 38% as certified in Ex.C1, and the multiplier of 18 as per the *Sarla Varma* formula,

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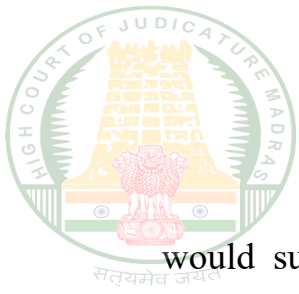
awarded a total compensation of Rs.9,63,107/- with interest at 7.5% per annum

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from the date of petition till the date of realization.

5. The learned counsel for the appellant/Insurance Company would submit that the Tribunal erred in fastening the liability on the appellant/Insurance Company, when the criminal case was closed as a mistake of fact. When an application for compensation was filed under Section 166 of the Motor Vehicles Act, it is for the claimant to establish by oral and documentary evidence that the accident was only due to the rash and negligent riding of the motorcycle. The Tribunal erred in adopting the multiplier method for the injuries sustained, when the petitioner has not filed any document to prove that he lost his avocation and income. The Medical Board has not mentioned that it is a permanent disability and the 38% disability is only the functional disability. While so, the Tribunal ought not to have adopted the multiplier method for the injuries sustained by the claimant. Hence, prayed for setting aside the award.

6. On the other hand, the learned counsel for the 1st respondent/petitioner



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would submit that the Tribunal, after a careful analysis of the evidence on record, has rightly fixed the negligence on the 1st respondent and awarded just and reasonable compensation that does not call for any interference.

7. Heard on both sides. Records perused.

8. On perusal of the records, it is seen that the FIR has been registered against the driver of the 1st respondent's vehicle. On the side of the appellant, it has not been established that the alleged accident occurred due to the negligent act of the petitioner/injured. Further, the Tribunal rightly held that the evidence of R.W.1, the Sub Inspector of Police, Nellikuppam Police Station, cannot be accepted for the reason that he had not investigated the case. Therefore, the learned Tribunal rightly rejected the copy of the Final Report marked as Ex.R1. Further, the criminal case was closed as 'Mistake of fact'. Hence, the Tribunal has rightly fixed the liability on the appellant, which cannot be interfered with.

9. Considering the age, avocation and the nature of the injuries of the



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petitioner, the Tribunal had rightly adopted the multiplier method in calculating the loss of income. The petitioner was a B.Tech Graduate working as an Engineer in a private company, aged 22 years at the time of the accident, and the injuries sustained by him – comminuted fracture of the shaft of the right humerus, comminuted fracture of both bones of the right forearm, and Grade 3 liver laceration – are grievous in nature and are bound to affect his earning capacity for the remainder of his working life. The Tribunal has rightly taken the notional income of Rs.9,000/- per month, the disability at 38% as per Ex.C1, and the multiplier of 18, and the compensation awarded under each head is just and proper. This Court does not find any reason to interfere with the quantum of compensation awarded.

10. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

29 .04.2026

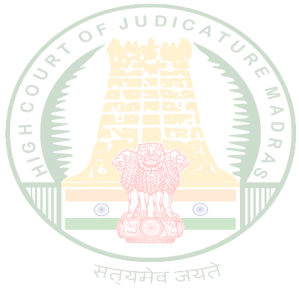
vsn

Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order

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- To
1. The Principal Sub Judge,
Cuddalore.
 2. The Section Officer,
VR Section,
High Court, Madras.



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K.GOVINDARAJAN THILAKAVADI, J.

vsn

Pre-delivery Judgment made in

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29.04.2026