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CMA NOS.2052 AND 3852 OF 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON : 07 / 01 / 2026

JUDGMENT PRONOUNCED ON : 21 / 01 / 2026

CORAM:

**THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR
AND
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL**

C.M.A. NOS.2052 AND 3852 OF 2025

AND

C.M.P. NO.32205 OF 2025

IN

C.M.A. NO.3852 OF 2025

C.M.A. NO.2052 OF 2025

V.Karunamoorthy

... Appellant /
Petitioner

Versus

1.A.Vasudevan
(1st Respondent was set *ex-parte*
by the Tribunal)

2.The Manager
United India Insurance Co. Ltd.,
Sillingi Building,
No.134, Greaves Road,
Chennai – 600 006.

... Respondents /
Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, praying to enhance the compensation awarded vide the

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CMA NOS.2052 AND 3852 OF 2025

Award dated April 25, 2025 passed in M.C.O.P.No.2514 of 2020 on the file of the Motor Accident Claims Tribunal and II Court of Small Causes, Chennai.

For Appellant : Mr.R.Dinesh Kumar
For Respondent-1 : Left
For Respondent-2 : Mr.J.Michael Visuvasam

C.M.A. NO.3852 OF 2025

The Manager

M/s.United India Insurance Co. Ltd.,
'Sillingi Building',
No.134, Greaves Road,
Chennai – 600 006.

... Appellant /
2nd Respondent

Versus

1.V.Karunamoorthy

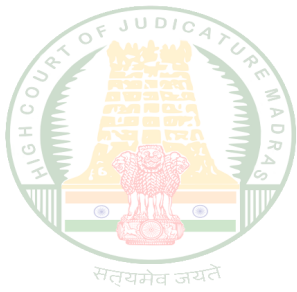
... 1st Respondent
Petitioner

2.A.Vasudevan

... 2nd Respondent /
1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, praying to set aside the Award dated April 25, 2025 passed in M.C.O.P.No.2514 of 2020 on the file of the Motor Accident Claims Tribunal and II Court of Small Causes, Chennai.

For Appellant : Mr.J.Michael Visuvasam
For Respondent-1 : Mr.R.Dinesh Kumar
For Respondent-2 : Left



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COMMON JUDGMENT

R.SAKTHIVEL, J.

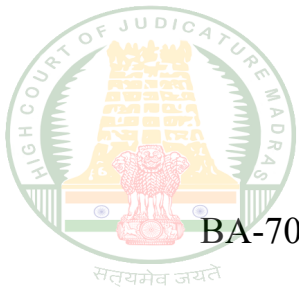
Feeling aggrieved by the Award dated April 25, 2025 passed by 'the Motor Accident Claims Tribunal and II Court of Small Causes, Chennai' ['Tribunal' for short] in M.C.O.P. No.2514 of 2020, the petitioner therein namely V.Karunamoorthy has preferred C.M.A. No.2052 of 2025 seeking enhancement of compensation while the second respondent therein, namely - The Manager, United India Insurance Company Limited has preferred C.M.A. No.3852 of 2025 seeking to set aside the Award.

2. For the sake of convenience, hereinafter, the parties will be denoted as per their array in the Original Petition.

PETITIONER'S CASE

3. On the early hours of May 22, 2020, at about 01:15 hours, the petitioner was driving a Lorry bearing Registration No.TN-02-AL-7299. He was proceeding from Janappan Chathram Koot Road towards Padi, Chennai, on GNT Road, Sholavaram, Tiruvallur District.

3.1. At that time, a Container Lorry bearing Registration No.TN-28-

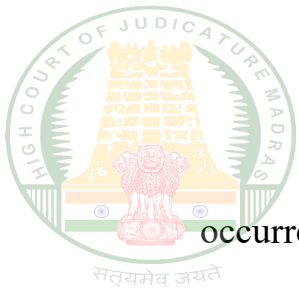


BA-7003, was driven in a rash and negligent manner at a high speed and in violation of traffic rules. It was coming from the opposite direction. The driver of the said Container Lorry drove the vehicle in a zigzag manner and suddenly turned without giving any signal or indication, thereby colliding with the petitioner's Lorry.

3.2. Due to the said impact, the petitioner sustained fractures in both legs along with multiple grievous injuries all over his body. Immediately after the accident, the petitioner was admitted at F.O.R. Ortho and Neuro Hospital, Chennai and thereafter took further treatment in other private hospitals.

3.3. In connection with the accident, a criminal case was registered on the file of the Sholavaram Police Station against the driver of the said Container Lorry in Crime No.1906 of 2020, for offences under Sections 279 and 337 of the Indian Penal Code, 1860.

3.4. At the time of the accident, the petitioner was aged about 27 years and was employed as a Lorry Driver under M/s.Royal Aqua Lorry Service, earning a monthly income of Rs.20,000/-. The first respondent is the owner of the offending Container Lorry and the second respondent is the insurer of the said vehicle. According to the petitioner, the accident



occurred solely due to the rash and negligent driving of the driver of the Container Lorry and therefore, both the respondents are jointly and severally liable to compensate the petitioner. Accordingly, the petitioner filed the present Claim Petition seeking compensation of Rs.1,25,00,000/-.

FIRST RESPONDENT'S CASE:

4. Despite notice to the first respondent, he did not choose to contest the Original Petition, hence he was called absent and set *ex-parte* by the Tribunal.

SECOND RESPONDENT'S CASE:

5. The second respondent filed counter contending that the accident occurred solely due to the rash and negligent driving of the petitioner himself. Apart from the routine formal contentions and denials, it was contended that the medical bills produced were created for the purpose of the claim and therefore could not be considered as valid evidence. It was also stated that the discharge summary does not indicate that the petitioner is unable to continue his avocation as a Lorry Driver. Stating so, the second respondent prayed for dismissal of the Claim Petition.

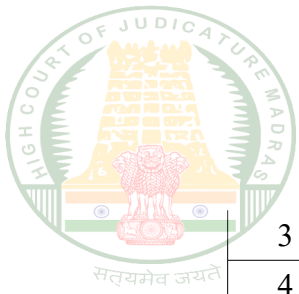


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6. At trial, the petitioner was examined as P.W.1. One Lakshmi, Junior Assistant from Regional Transport Office, Ariyalur was examined as P.W.2. Yashwanth, Manager from Shifa Royal Aqua Products was examined as P.W.3. Kavin Kumaran, Administrative Officer from F.O.R. Ortho and Neuro Hospital was examined as P.W.4. Ex-P.1 to Ex-P.22 were marked. On the side of the respondents, neither any witness was examined nor any document was marked. Disability Certificate issued by the Medical Board was marked as Ex-C.1.

7. The Tribunal after considering the evidence available on record, found that the accident occurred due to the rash and negligent driving of the first respondent's Driver. At the time of accident, the Container Lorry which caused the accident was insured with the second respondent / Insurance Company. Accordingly, the Tribunal held that the second respondent / Insurance Company alone is liable to pay the compensation to the petitioner and awarded a sum of Rs.57,03,000/- (Rupees Fifty Seven Lakhs Three Thousand Only) as compensation to the petitioner, as tabulated hereunder:

Sl.No.	Head	Amount
1	Loss of income (Rs.20,440/- X 12 X 17 X 100%)	Rs.41,69,760.00
2	Transport to Hospital	Rs.20,000.00



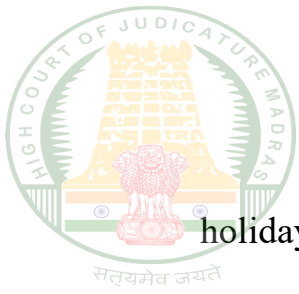
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3	Extra Nourishment	Rs.30,000.00
4	Attender's charges	Rs.1,00,000.00
5	Medical Bills	Rs.9,32,215.00
6	Pain and Sufferings, Mental agony	Rs.1,00,000.00
7	Loss of amenities	Rs.1,00,000.00
8	Future medical expenses	Rs.50,000.00
9	Loss of marriage prospects	Rs.2,00,000.00
10	Damage to cloth	Rs.1,000.00
	Total	Rs.57,02,975.00
	Rounded off to	Rs.57,03,000.00

8. Dissatisfied with the Award, the second respondent / Insurance Company preferred C.M.A. No.3852 of 2025 seeking to set aside the same. Challenging the quantum of compensation, the petitioner has preferred C.M.A. No.2052 of 2025 seeking enhancement of compensation.

ARGUMENTS:

9. Learned Counsel appearing for the appellant in C.M.A. No.2052 of 2025 / first respondent in C.M.A. No.3852 of 2025 / petitioner in the claim petition, submitted that the petitioner was working as a heavy vehicle driver in a company called Shifa Royal Aqua Products and earning Rs.20,000/- per month. The petitioner has examined the manager of the company as P.W.3 through whom Ex-P.19 was marked. Ex-P.19 is a letter stating that the petitioner was earning Rs.1,500/- per day, Sundays were



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holidays and accordingly, the petitioner's monthly income was Rs.30,000/- per month. He drew attention of this Court to Ex-P.1 - First Information Report (FIR) and submitted that the accident occurred in the course of employment and the employer cum owner of the vehicle is the one who preferred the police complaint regarding the accident. In view of the fact that the petitioner was a driver holding heavy vehicle licence, in any rate, he would have earned at least Rs.20,000/- per month and he relied on the Judgment of Hon'ble Supreme Court in *Sushila -vs- Ram Swaroop*, reported in **2023 ACJ 2028**, wherein the income for a heavy vehicle (18 wheels) driver was taken as Rs.20,000/- per month including daily allowances. The Tribunal failed to consider the said aspect and erred in fixing his income notionally at Rs.14,600/-, which is on the lower side. Further, due to the accident, one of the petitioner's leg remain twisted and he cannot even stand much less move without assistance from others and consequently, he lost his marriage prospects. The Tribunal has awarded Rs.2,00,000/- for the same which is meagre and insufficient. Accordingly, he prayed to enhance the compensation awarded by the Tribunal.

10. On the other hand, learned Counsel for the appellant in C.M.A. No.3852 of 2025 / second respondent in C.M.A.No.2052 of 2025 / insurance company submitted that that the first respondent's vehicle came



in the opposite lane and turned into Sholavaram town after turning on indicators. It is the petitioner who drove rashly and negligently and collided with the first respondent's lorry. In any event, the petitioner must be mulcted with a deduction for contributory negligence. The Tribunal failed to consider the said aspect. Further, Ex-P.6 contains Medical Bills of the petitioner to the tune of Rs.9,32,215/-. But out of the same, Bills for Rs.7,61,321/- alone was issued by F.O.R. Ortho and Neuro Hospital. Bills for the remaining amount were issued by random private hospitals and medical shops and are suspicious; they lack prescription or any supporting material. They have been inserted with a view to boost the compensation. Accordingly, he prayed to allow C.M.A. No.3852 of 2025, dismiss C.M.A. No.2052 of 2025 and set aside the Award.

DISCUSSION:

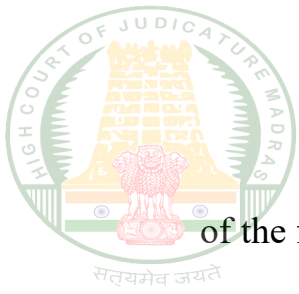
11. Heard either side. Perused the evidence available on record.

12. As regards negligence, in Ex-P.1 - F.I.R. preferred by the petitioner's owner, it has been stated that the accident occurred when the first respondent's vehicle travelling towards Chennai in the same direction as that of his vehicle, suddenly and negligently took a turn without any indication. In the claim petition, the petitioner has stated that the first



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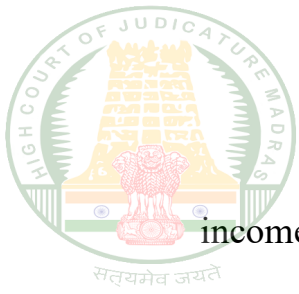
respondent's vehicle was coming from the opposite direction in a zig-zag manner and made a Turn without any warning signs to enter Sholavaram Town and that led to the accident. Admittedly, the informant / owner of the vehicle driven by the petitioner was present at the accident spot at the time of accident. Hence, his complaint is based on hear-say information. While it can be relied on *qua* factum of accident, in the presence of the petitioner, it cannot be relied on *qua* manner of accident. Among these two, the petitioner is the competent person to depose about the manner of accident. The petitioner in his claim petition as well as in his evidence as P.W.1, has consistently maintained a stand that the first respondent's vehicle was coming in the opposite direction and abruptly made a turn without any indication leading to the accident. Hence, the petitioner has *prima facie* established his case *qua* manner of accident and negligence. Now the onus is upon the respondents to rebut the same and prove their case of negligence on the petitioner. The second respondent ought to have examined the driver of the first respondent or any other ocular witness to prove their case, but they have miserably failed to do so. No Rough Sketch was filed and the Investigating Officer in the Criminal Case was also not examined. The second respondent has not taken any step to prove its case of negligence / contributory negligence on the petitioner. Hence, this Court concludes that the accident occurred solely due to the rash and negligence



of the first respondent's driver.

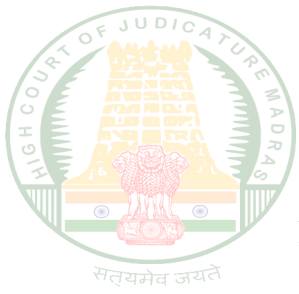
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13. Coming to the income of the petitioner, there is no standard and consistent proof. The petitioner is said to have been working as a Heavy Vehicle Driver at Shifa Royal Aqua Products, a proprietary concern. Yashwanth, its Manager was examined as P.W.3 and he marked the Ex-P.19 - Letter issued by the Owner of the said proprietary concern. P.W.3 has deposed that the petitioner earned Rs.1,500/- per day and was entitled to one day week-off. In Ex-P.19, it is stated that the petitioner earned Rs.1,500/- per day and Sundays were holidays. In any case, the monthly income of the petitioner should be around Rs.39,000/- [(Rs.1,500/- X 30) - (Rs.1,500 X 4)]. But in the very same letter, it has also been stated that the petitioner earned Rs.30,000/-. Hence, the letter is not consistent with itself. The petitioner who in his claim petition has stated that he was earning Rs.20,000/- per month, in his evidence as P.W.1 has inconsistently stated that he was receiving Rs.45,000/- per month. In grounds of appeal filed before this Court, it is stated that the petitioner earned Rs.20,000/- per month. Hence, this Court needs direct or corroborative evidence to decide the income of the petitioner. The petitioner could have filed his bank statement, wage register from employer, or atleast examined his co-drivers if any. But he has not done so. Hence, the petitioner has not proved his



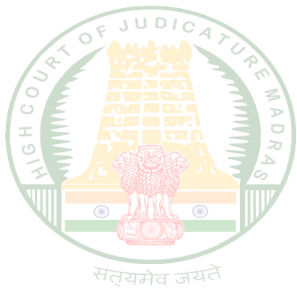
income. In these circumstances, the Tribunal was right in considering his income notionally. But it failed to consider the fact that the driving, that too driving heavy vehicles, is a skilled job and that the petitioner has his heavy vehicle licence ever since 2014 (Ex-P.16 - Licence). Considering the said aspects as well as the fact that the accident occurred in the year 2020, this Court is of the view that the notional income fixed by the Tribunal at Rs.14,600/- per month is on the lower side and that the petitioner would have earned not less than Rs.18,000/- per month. Accordingly, this Court fixes the notional income of the petitioner at Rs.18,000/-.

14. As regards the ***Sushila's Case*** relied on by the learned Counsel for the petitioner, the Hon'ble Supreme Court ruled that the Driver therein being a driver of a heavy vehicle with 18 wheels, would have earned Rs.20,000/- as there is demand for drivers for such heavy duty vehicles. The accident therein took place in 2012. The Driver therein had produced two documents (Ex-P.3 and Ex-P.4) to contend that he was earning Rs.23,500/-. In these circumstances, the Hon'ble Supreme Court took Rs.20,000/- as notional income. Coming to the instant case, the petitioner herein is a Driver for a water lorry and as stated supra, he has not proved his alleged income of Rs.45,000/-. Hence, ***Sushila's Case*** would not come to the aid of the petitioner.



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15. As regards the contention *qua* Ex-P.6 - Medical Bills, the case of the insurance company is that it is valid only for the amount of Rs.7,61,321/- spent at F.O.R. Ortho and Neuro Hospital and that the Bills for the remaining amount *viz.*, Rs.1,70,679/- are false. In this case, the Administrator of the said Hospital was examined as P.W.4. The insurance company did not pose him with any question as to the relevancy or necessity of the treatment and medicines taken by the petitioner outside their hospital, as shown by the Bills for the remaining amount of Rs.1,70,679/-. Those Bills bear the name of the petitioner. As per the discharge summaries available in Ex-P.3 to Ex-P.5, the petitioner had underwent three surgeries and underwent treatment as in-patient in three spells, first from May 23, 2020 to June 14, 2020, then from July 3, 2020 to July 10, 2020, and then from November 2, 2020 to November 7, 2020. Given the nature and period of treatment, the Bill amount appears to be a reasonable one. Under the given circumstances, the presumption is that the Bills were duly incurred by the petitioner due to the accident when there is no reason to infer otherwise. The insurance company has not let in any evidence to dispute the genuineness of those Bills. This Court finds no reason to disbelieve them and the contention of the learned Counsel of the insurance company in this regard deserves to be rejected.



16. As regards disability, this Court deems fit to extract hereunder the relevant portions of Ex-P.3 to Ex-P.5 for better understanding of the nature of injuries sustained by the petitioner:

Ex-P.3:

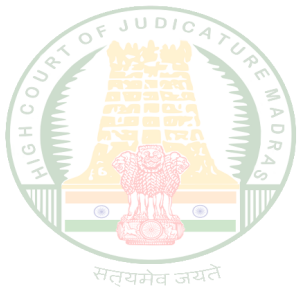
"DIAGNOSIS: 1. Major Crush Injury Grade -3B Compound Comminuted Segmental Both Bone Fracture (Lt) Leg / 2. Post Traumatic Gangrene (Lt) Foot Dorsum / 3. Post Traumatic Raw (Lt) Dorsum of foot with Bone Exposed Tendon Exposed.

.

PROCEDURE: 1. Wound Wash + Debridement + LRS Fixation (Lt) done.

Under SA patient on supine position wound washed thoroughly with NS, Betadine, Scrub, Hydrogen Peroxide paint draped. satisfactly reduction achived and Fracture stabilized using LRS Fixator using 3 Proximal pins and 3 distal pins under C-ARM control, Dislocated 2nd MT, Tarsal joint was stabilised using a k-wire, wound stiching sutures applied using 1 ethilon, through lavoger given Bactrigoss. Dressing applied.

PROCEDURE: 2. Post Traumatic Gangrene Lt Foot Dorsum done.



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Under SA Patient on Supine Position, spiral area with aseptic precaution wound through debridement of the wound done, through wound wash given. Dressing Applied.

PROCEDURE: 4. (sic 3.) Flap Cover + SSG Lt Dorsum done.

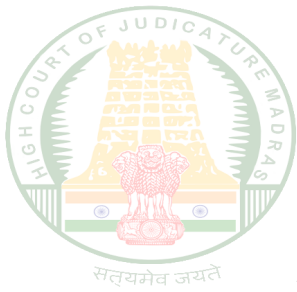
Under SA Patient on Supine Position under aspect with aseptic precaution debridement done. Dead Tendon Bone Exised, further debridement done, cross Leg flap from other Leg covered to the defect, SSG harvested from thigh medial aspect for the defect Dressing Applied and POP given."

Ex-P.4:

"DIAGNOSIS: Grade 3B Compound Fracture Lt Leg on External Fix with Cross Leg Flap.

PROCEDURE: Crossing Flap done - Flap Division Lt Leg Done.

Under SA Patient on Supine Position under aseptic precaution division done, Patient had BP fall - flap insert done site sutured using 2-0 ethilon. Dressing Applied."



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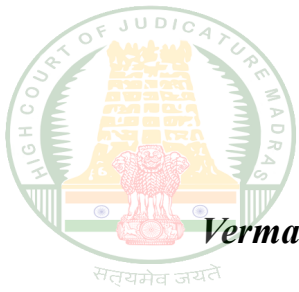
Ex-P.5:

"Diagnosis: 6 months old Operated Grade - 3 B Compound Fracture Both Bone with Infected Flap Cover Dorsum of Lt Foot.

Procedure: Wound Wash + Debridement Done Lt Foot."

17. Further, the petitioner appeared before this Court on January 7, 2026. This Court was able to witness the current physical condition of the petitioner. His left leg appears to be twisted which makes him unable to move or even stand on his own without holding to someone or some object. The petitioner would definitely not be able to continue his driver profession. While so, though the Medical Board assessed the disability of the petitioner as 81% permanent disability, this Court is of the view that the petitioner suffers from 100% functional disability. Hence, the Tribunal was right in fixing 100% functional disability and employing multiplier method.

18. With Rs.18,000/- as monthly income, 40% future prospects (as per *National Insurance Company Limited -vs- Pranay Sethi*, reported in (2017) 16 SCC 680) and the appropriate multiplier of 17 (as per *Sarla*



Verma -vs- Delhi Transport Corporation, reported in **(2009) 6 SCC 121**),

the compensation under the head of loss of income would be Rs.51,40,800/-.

19. The Tribunal ought not to have awarded compensation towards loss of amenities. As functional disability of the petitioner is considered at 100% and multiplier method is employed, there is no need to award compensation under the head of the loss of amenities and hence, the same is liable to be removed. In this regard reference may be made to **Raj Kumar -vs- Ajay Kumar**, reported in **(2011) 1 SCC 343**, wherein the Hon'ble Supreme Court has observed as follows:

"15.It may be noted that when compensation is awarded by treating the loss of future earning capacity as 100% (or even anything more than 50%), the need to award compensation separately under the head of loss of amenities or loss of expectation of life may disappear and as a result, only a token or nominal amount may have to be awarded under the head of loss of amenities or loss of expectation of life, as otherwise there may be a duplication in the award of compensation. Be that as it may."

20. This Court finds the compensation awarded under other heads



just, fair and reasonable, including that of Rs.2,00,000/- awarded under the head of loss of marriage prospects.

21. Thus, the petitioner is entitled to modified compensation of Rs.65,74,015/- [Rupees Sixty Five Lakhs Seventy Four Thousand and Fifteen only]. The break-up figure is as follows:

S.No.	Head	Amount Awarded by the Tribunal	Amount awarded by this Court
1	Loss of income (Rs.20,440/- X 12 X 17 X 100% awarded by Tribunal) (Rs.18,000/- X 40% (FP) = Rs.25,200/- Rs.25,200/- X 12X 17 X 100% awarded by this Court)	Rs.41,69,760.00	51,40,800.00
2	Transport to Hospital	Rs.20,000.00	Rs.20,000.00
3	Extra Nourishment	Rs.30,000.00	Rs.30,000.00
4	Attender's charges	Rs.1,00,000.00	Rs.1,00,000.00
5	Medical Bills	Rs.9,32,215.00	Rs.9,32,215.00
6	Pain and Sufferings, Mental agony	Rs.1,00,000.00	Rs.1,00,000.00
7	Loss of amenities	Rs.1,00,000.00	---
8	Future medical expenses	Rs.50,000.00	Rs.50,000.00
9	Loss of marriage prospects	Rs.2,00,000.00	Rs.2,00,000.00
10	Damage to cloth	Rs.1,000.00	Rs.1,000.00
	Total	Rs.57,02,975.00 (Rounded off to Rs.57,03,000/-)	Rs.65,74,015.00

22. The insurance company is directed to deposit the said amount, less if any already deposited, to the credit of M.C.O.P.No.2514 of 2020 on the file of the Motor Accident Claims Tribunal and II Court of Small Causes, Chennai, within a period of eight (8) weeks from the date of



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receipt of a copy of this Common Judgment. In all other aspects, the

Award of the Tribunal shall hold good.

CONCLUSION:

23. Resultantly, C.M.A.No.2052 of 2025 filed by the petitioner is allowed in part and an enhanced compensation is awarded as detailed above. C.M.A.No.3852 of 2025 filed by the insurance company is dismissed. In view of the facts and circumstances of this case, the parties shall bear their own costs. Connected Civil Miscellaneous Petition is closed.

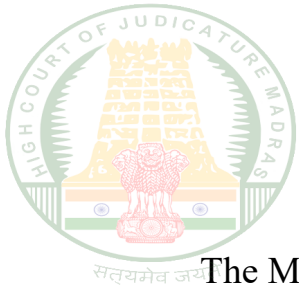
[N.S.K., J.]

[R.S.V., J.]

21 / 01 / 2026

Index : Yes / No
Neutral Citation : Yes / No
Speaking Order : Yes / No
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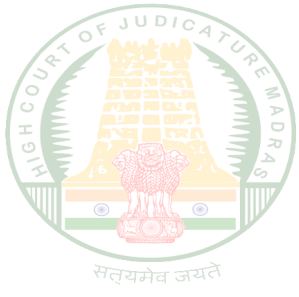
To



CMA NOS.2052 AND 3852 OF 2025

The Motor Accident Claims Tribunal
and II Court of Small Causes
Chennai.

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N.SATHISH KUMAR, J.

AND

R.SAKTHIVEL, J.

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PRE-DELIVERY COMMON JUDGMENT MADE IN

C.M.A. NOS.2052 AND 3852 OF 2025

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