



IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON : 21 / 01 / 2026

JUDGMENT PRONOUNCED ON : 17 / 02 / 2026

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CORAM:

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

AND

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.M.A. NOS.3839 OF 2025 AND 90 OF 2026

AND

C.M.P. NO.31978 OF 2025 IN C.M.A. NO.3839 OF 2025

C.M.A. NO.3839 OF 2025

The Manager

Reliance General Insurance Company Limited

Sree Lakshmi Complex, 1st Floor,

Omalur Main Road, Bharathi Street,

Swarnapuri, Salem – 636 004.

... Appellant /
2nd Respondent

Versus

1.Ramamoorthy

Residing at No.31, S.Kurapatty Village,

Sandhanapalli Post, Denkaikottai Taluk,

Krishnagiri District – 635 107.

... 1st Respondent /
Petitioner

2.K.Sakthivel

Residing at No.346, Mariyamman Kovil Street,

Periyakulam, Melpadur, Chengam,

Tiruvannamalai District – 606 702.

... 2nd Respondent /
1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the Order dated August 16,



C.M.A. NOS.3839 OF 2025 & 90 OF 2026

2024 passed in M.C.O.P. No.268 of 2023 on the file of the Motor Accident Claims Tribunal / Special Subordinate Court, Krishnagiri, by allowing this Civil Miscellaneous Appeal.

For Appellant : Mr.P.Suresh Srinivasan

For Respondent-1 : Mr.S.P.Yuaraj

For Respondent-2 : R2 was set *ex parte* before Tribunal. Hence notice to R2 is dispensed with by this Judgment

C.M.A. NO.90 OF 2026

Ramamoorthy

No.31, S.Kurapatty Village,
Sandhanapalli Post, Denkaikottai Taluk,
Krishnagiri District – 635 107.

... Appellant /
Petitioner

Versus

1.K.Sakthivel

Residing at No.346, Mariyamman Kovil Street,
Periyakulam, Melpadur, Chengam,
Tiruvannamalai District – 606 702.

... 1st Respondent /
1st Respondent

2.The Manager

Reliance General Insurance Co. Limited
Sree Lakshmi Complex, 1st Floor,
Omalur Main Road, Bharathi Street,
Swarnapuri, Salem – 636 004.

... 2nd Respondent /
2nd Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to enhance the compensation amount awarded in the Fair Order dated August 16, 2024 passed in M.C.O.P.



C.M.A. NOS.3839 OF 2025 & 90 OF 2026

No.268 of 2023 on the file of the Motor Accident Claims Tribunal / Special Subordinate Court, Krishnagiri, by allowing this Civil Miscellaneous Appeal.

For Appellant : Mr.S.P.Yuaraj

For Respondent-1 : R1 was set *ex parte* before Tribunal.

Hence notice to R1 is dispensed with by this Judgment

For Respondent-2 : Mr.P.Suresh Srinivasan

* * *

COMMON JUDGMENT

R.SAKTHIVEL, J.

Feeling aggrieved by the Award dated August 16, 2024 passed by 'the Motor Accident Claims Tribunal / Special Subordinate Court, Krishnagiri' ['Tribunal' for short] in M.C.O.P. No.268 of 2023, the second respondent therein, namely The Manager, Reliance General Insurance Company Limited, has preferred C.M.A. No.3839 of 2025 seeking to set aside the Award, while the petitioner therein, namely Ramamoorthy, has preferred C.M.A. No.90 of 2026 seeking enhancement of compensation.

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



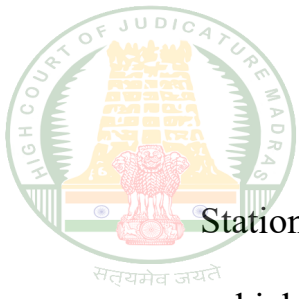
PETITIONER'S CASE

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3. On September 11, 2022, the petitioner was riding his motorcycle viz., Yamaha YBR bearing Registration No.TN-29-BB-4075. He was proceeding from Thippachandiram to Rathinagiri Road, near the Diversion Road adjoining PAJAKA Milk Dairy. At that time, the first respondent's Pickup vehicle bearing Registration No.TN-25-BR-4989, driven by its driver from the opposite direction in a rash and negligent manner at a high speed, lost control and dashed against the petitioner's motorcycle.

3.1. Due to the said impact, the petitioner sustained grievous injuries. Immediately after the accident, the petitioner was admitted and treated at the Government Hospital, Denkanikottai and thereafter at SPARSH Hospital, Bangalore. Even as on the date of petition, the petitioner was continuing his medical treatment. At the time of the accident, the petitioner was aged about 24 years and was working as a Catering Master, earning a sum of Rs.30,000/- per month.

3.2. Pursuant to the accident, a First Information Report (F.I.R.) in Crime No.226 of 2022 was registered for the offences under Sections 279 and 337 of the Indian Penal Code, 1860, on the file of Denkanikottai Police



Station, Krishnagiri District against the driver of first respondent's Pickup vehicle.

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3.3. According to the petitioner, the accident occurred solely due to the rash and negligent driving of the driver of the said Pickup vehicle. Hence, the respondents, being owner and insurer of the offending Pickup vehicle respectively, are jointly and severally liable to compensate the petitioner for the injuries sustained by him. Accordingly, the petitioner has filed the present claim petition seeking a compensation of Rs.35,00,000/- (Rupees Thirty-Five Lakhs only).

FIRST RESPONDENT'S CASE:

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

SECOND RESPONDENT'S CASE:

5. The second respondent filed a counter statement contending that the accident occurred solely due to the rash and negligent riding of the petitioner himself. According to the second respondent, the petitioner was riding his motorcycle without holding a valid driving licence and without



wearing a helmet. It is further contended that the petitioner rode the motorcycle at a high speed in a junction road, lost control of the vehicle, and dashed against the alleged offending vehicle belonging to the first respondent, thereby inviting the accident. The second respondent further denied the other petition averments and contended that the petitioner is put to strict proof of the same. On these grounds, the second respondent / insurance company sought for dismissal of the Claim Petition.

TRIBUNAL

6. At trial, on the side of the petitioner, the petitioner examined himself as P.W.1 and Ex-P.1 to Ex-P.12 were marked. On the side of the respondents, no witness was examined, but Motor Vehicle Inspection Report [M.V.I. Report] of the two wheeler the petitioner was riding, was marked as Ex-R.1. The Report issued by the Medical Board was marked as Ex-C.1.

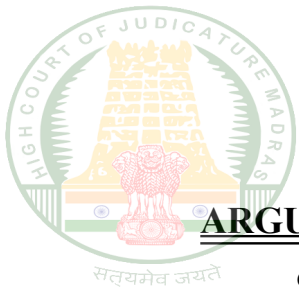
7. The Tribunal, after considering the oral and documentary evidence available on record, came to the conclusion that the accident occurred due to the rash and negligent driving of the driver of the Pickup vehicle, belonging to the first respondent and insured with the second



respondent / insurance company at the material point of time. Accordingly, the Tribunal held that the second respondent / insurance company alone is liable to pay compensation to the petitioner and awarded a sum of Rs.25,20,000/- (Rupees Twenty-Five Lakhs Twenty Thousand only) as compensation to the petitioner, as detailed in the tabulation hereunder:

S.No.	Head	Amount
1	Future loss of earning capacity	Rs.12,70,000/-
2	Medical expenses	Rs.9,01,300/-
3	Pain and suffering	Rs.1,00,000/-
4	Transportation expenses	Rs.72,000/-
5	Additional nourishment	Rs.15,000/-
6	Damages to the cloths	Rs.1,700/-
7	Attender charges	Rs.10,000/-
8	Loss of amenities	Rs.1,00,000/-
9	Future medical expenses	Rs.50,000/-
Total compensation		Rs.25,20,000/-

8. Dissatisfied with the Award, the second respondent / insurance company has preferred C.M.A. No.3839 of 2025 seeking to set aside the same. Seeking enhancement of compensation, the petitioner has preferred C.M.A. No.90 of 2026.

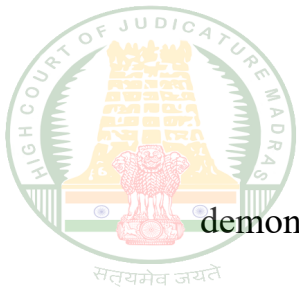


ARGUMENTS

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9. Mr.S.P.Yuaraj, learned Counsel for the appellant in C.M.A. No.90 of 2026 / first respondent in C.M.A. No.3839 of 2025 / petitioner submitted that the petitioner being a Catering Master, aged 24 years at the time of accident, was unable to perform his job as well as his day-to-day activities because of the accident. The petitioner was admitted in the Hospital multiple times as an in-patient. The petitioner underwent multiple surgeries. The petitioner sustained crush injury with absent distal vascularity - right lower limb, near total amputation of right middle finger and ring finger with fracture distal phalanx, right distal femur comminuted fracture, right proximal tibia fracture with open wound type III C, post traumatic raw right lower limb, right distal femur comminuted displaced fracture, right proximal tibia comminuted fracture, along with several other grievous injuries all over the body.

9.1. It was further contended that the Medical Board assessed the disability of the petitioner at 60% permanent partial disability and issued its report dated April 5, 2024, marked as Ex-C.1. The fact that the accident occurred in the year 2022, and that the petitioner continues to suffer from 60% functional disability even in 2024, clearly and unequivocally



demonstrates the grievous nature of the injuries sustained and the permanent character of the disability.

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9.2. It was further contended that the Tribunal failed to adequately consider the pain and suffering as well as the mental trauma underwent by the petitioner at the young age of 23 years (at the time of the accident), and the continuing nature of such suffering. The petitioner continues to experience persistent pain owing to the grievous injuries sustained. Accordingly, the learned Counsel prayed to allow the appeal in C.M.A. No.90 of 2026, dismiss that in C.M.A. No.3839 of 2025 and enhance the Award amount, taking into consideration all the relevant and attendant factors.

10. On the other hand, Mr.P.Suresh Srinivasan, learned Counsel appearing for the appellant in C.M.A. No.3839 of 2025 / second respondent in C.M.A. No.90 of 2026 / second respondent in Claim Petition / insurance company, contended that the compensation awarded by the Tribunal is excessive and arbitrary. It was submitted that there was no negligence on the part of the driver of the first respondent's Pickup vehicle. The initial burden of proof lies upon the petitioner to establish the alleged negligence of the first respondent's driver; however, the petitioner has



failed to discharge the said burden. It was further contended that the petitioner did not examine any independent ocular witness to the occurrence. In the absence of such proof, the Tribunal was not justified in attributing negligence on the first respondent's driver. The learned Counsel also assailed the Tribunal's approach in fixing the notional income at Rs.12,000/- per month and in adding 40% towards future prospects, as baseless. Accordingly, the learned Counsel prayed to allow C.M.A. No.3839 of 2025 and dismiss C.M.A. No.90 of 2026 and set aside the Award passed by the Tribunal.

DISCUSSION

11. This Court has heard the submissions made on either side and perused the materials available on record. Respondent No.1-K.Sakthivel was set *ex parte* before Tribunal. Considering the facts and circumstances of the case, this Court is of the view that notice to Respondent No.1 is not necessary. Therefore, notice to Respondent No.1 is dispensed with by this Court.

12. This Court has perused Ex-P.1 - F.I.R. marked on behalf of the petitioner. It was registered against the driver of the first respondent's Pickup vehicle. The petitioner / injured entered the witness box as P.W.1



and deposited in line with the manner of accident as stated in the Claim Petition. He deposed that the first respondent's Pickup van which was approaching from the opposite direction dashed against his motorcycle and caused the accident. He being the victim is a competent person to depose about the manner of accident. His evidence coupled with Ex-P.1 - F.I.R., *prima facie* proves his case *qua* manner of accident.

13. Though the second respondent contended that the accident occurred when the petitioner attempted to negligently cross the road in his motorcycle, the said contention remained unsubstantiated as no evidence was let in to support the same. No rough sketch was marked on the side of second respondent. Neither the driver of first respondent's Pickup vehicle nor any ocular witness was examined on the part of the second respondent.

14. Yet another contention of the second respondent is that the petitioner did not possess a valid driving licence at the time of accident. The second respondent would go on to contend that the petitioner, holding no valid driving licence, contributed to the accident. To support the same, Ex-R.1 - M.V.I. Report of petitioner's motorcycle has been marked. From Ex-R.1, it could be seen that the driving licence of the petitioner was not produced before the vehicle inspector / author of Ex-R.1, and the same is



not conclusive proof that the petitioner did not have a valid licence. In the first place, though the petitioner did not produce his driving licence before the vehicle inspector or the Court, the burden to prove that the petitioner did not possess a valid driving licence at the time of accident is upon the second respondent who set up the said defence. The second respondent has not let in any evidence to substantiate its defence. The second respondent could have very well examined the Regional Transport Officer [RTO] or anyone from the office of RTO to prove its defence, but it has failed to do so. Secondly, even while operating under the assumption that the second respondent has proved its defence that the petitioner did not have a valid driving licence at the time of accident, the same does not, as such, mean he contributed to the accident. The second respondent must establish that the petitioner was riding rashly and negligently in order to invoke the principle of contributory negligence. At this point, this Court would like to refer to the Judgment of Hon'ble Supreme Court in ***Sudhir Kumar Rana -vs- Surinder Singh***, reported in **(2008) 12 SCC 436**, which was subsequently followed in ***Dinesh Kumar -vs- National Insurance Co. Ltd.***, reported in **(2018) 1 SCC 750**. Relevant extract of *Sudhir Kumar Rana's Case* reads thus:

"9.If a person drives a vehicle without a licence, he commits an offence. The same, by itself, in our



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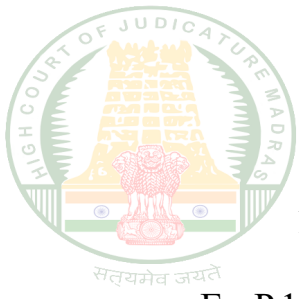


C.M.A. NOS.3839 OF 2025 & 90 OF 2026

opinion, may not lead to a finding of negligence as regards the accident. It has been held by the courts below that it was the driver of the mini truck who was driving rashly and negligently. It is one thing to say that the appellant was not possessing any licence but no finding of fact has been arrived at that he was driving the two-wheeler rashly and negligently. If he was not driving rashly and negligently which contributed to the accident, we fail to see as to how, only because he was not having a licence, he would be held to be guilty of contributory negligence.

10. The matter might have been different if by reason of his rash and negligent driving, the accident had taken place."

15. Thus, the legal position is clear that non-holding of a valid driving licence is itself cannot be ground for mulcting the petitioner for contributory negligence. In view of the legal position and also in view of the fact that the second respondent failed to discharge its burden to prove its defence, the contention of second respondent *qua* the petitioner lacking a valid driving licence at the material point of time, does not hold up under scrutiny.



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16. As discussed above, the uncontroverted evidence of P.W.1 and Ex-P.1 - F.I.R. proves that the accident occurred due to the rash and negligence on the part of the driver of first respondent's Pickup van. The second respondent is the insurer of the offending vehicle under Ex-P.2 - Insurance Policy which is valid from November 10, 2021 to November 9, 2022; Ex-P.2 was valid and in force on the date of accident, being September 11, 2022. Hence, the respondents 1 and 2 are jointly and severally liable to compensate the petitioner, as rightly held by the Tribunal.

17. As regards quantum of compensation, the Tribunal found that the petitioner was engaged in catering work and there is no serious dispute with respect to the said finding before this Court. Upon perusal of the Award and the evidence available on record, this Court finds that the Tribunal was not justified in fixing the functional disability at 35%, when the Medical Board duly constituted has assessed the petitioner's disability as 60% partial permanent disability *vide* the Disability Certificate in Ex-C.1. For ease of reference, the contents of the Disability Certificate issued by the Medical Board are extracted below:



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C.M.A. NOS.3839 OF 2025 & 90 OF 2026

"DISABILITY CERTIFICATE"

14. Nature of functional disability, if applicable

(செயல்பாட்டு இயலாமையின் தன்மை, பொருந்தினால் மட்டும்)

a. Specify the functional disability

(செயல்பாட்டு இயலாமையைக் குறிப்பிடவும்)

Post traumatic stiffness (R) knee ankle with Arthritis / deformity (R) leg

b. Specify the cause of functional disability

(செயல்பாட்டு இயலாமைக்கான காரணத்தைக் குறிப்பிடவும்)

RTA

c. Percentage of functional disability

(செயல்பாட்டு இயலாமை சதவீதம்)

60% (Sixty Percentage) (Partial Permanent)

i. does disability affect day to day life?

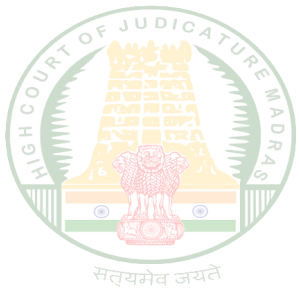
(இயலாமை அன்றாட வாழ்க்கையை பாதிக்கிறதா?)

Yes

ii. does disability affect earning capacity with regard to the occupation ?

(இயலாமை தொழிலைப் பொறுத்தவரையில் சம்பாதிக்கும் திறனை பாதிக்கிறதா?)

Yes



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iii. Whether there is scope for the disability being reduced?
(இயலாமை குறைக்கப்படுவதற்கான வாய்ப்பு உள்ளதா?)"

Nil

18. It could be seen from Ex-C.1 that the petitioner has been suffering from reduced movements, arthritis in right ankle and stiffness in right knee. The accident occurred on September 11, 2022 and Ex-C.1 - Disability Certificate is dated April 5, 2024. The fact that the petitioner was suffering from 60% partial permanent disability even after about two years from accident, shows the grievous nature of injuries. Further, being a Catering Master could be a physically demanding and time sensitive job. It involves standing for long hours, lifting and mobilising moderate to heavy loads and also constant supervision across the food preparation area and in some cases, even the serving area. To be noted, the petitioner is not involved in a large scale organised catering, where there would be more scope for delegation and consequently, reduced physical strain for him. Being a small scale caterer, his direct physical involvement is necessary. Considering the avocation of the petitioner as a Catering Master and in view of the grievous injuries sustained by the petitioner, which would



substantially hinder his working efficiency and affect his earning capacity in his chosen profession, this Court assesses the petitioner's disability at 60% functional disability. The Tribunal is not justifiable in considering his functional disability at 35%.

19. As regards the income of the petitioner, as no sufficient evidence was adduced on the petitioner's side to substantiate his alleged income of Rs.30,000/-, the Tribunal went on to fix his monthly income at Rs.12,000/- [annual income at Rs.1,44,000/-] notionally, by taking into consideration cost inflation index and money value. Bearing in mind the age and avocation of the petitioner, as well as the then prevailing price index, this Court is of the view that the petitioner would have earned not less than Rs.12,000/- to maintain himself and support his family members. In the absence of direct evidence, the Tribunal is right in fixing his monthly income notionally at Rs.12,000/-.

20. Based on Ex-P.9 - Aadhar Card of petitioner, the Tribunal found that the petitioner was born on July 10, 1999 and held that he was aged 23 years at the time of accident. The Tribunal rightly applied 40% towards future prospects and adopted the multiplier of 18, which are in tune with Judgments of Hon'ble Supreme Court in *Sarla Verma -vs- Delhi Transport*



Corporation, reported in (2009) 6 SCC 121 and **National Insurance Company Limited -vs- Pranay Sethi**, reported in (2017) 16 SCC 680.

However, as stated *supra*, the Tribunal ought to have considered the petitioner's functional disability at 60% bearing in mind the nature of his avocation as well as Ex-C.1. When functional disability is considered at 60%, compensation towards 'future loss of earning capacity' comes to Rs.21,77,280/-.

21. That apart, as per the discharge summaries and medical records in Ex-P.3 to Ex-P.7, it could be seen that the petitioner obtained treatment as an in-patient in two different hospitals in multiple stints, for about 20 days in total, within a span of one year from the date of accident. Further, it could be seen that he suffered severe and grievous injuries in his right leg and that his right middle finger suffered injuries to the extent of near amputation. Keeping in mind these facts, this Court is of the view that the compensation of Rs.1,00,000/- towards pain and sufferings is justifiable.

22. The compensation awarded under the head of medical expenses is based on the Medical Bills found in Ex-P.12. Similarly, transportation expenses awarded is also based on the transportation bills in Ex-P.11. Further, the Tribunal, having considered the petitioner's grievous injuries,



post-traumatic stiffness, the Medical Board's observation in Ex-C.1 regarding the removal of medical implants and the petitioner's arthritis, awarded a sum of Rs.50,000/- towards future medical expenses, and this Court finds no reason to interfere with the same.

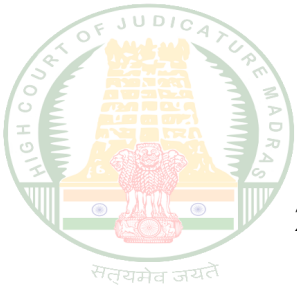
23. Further, Ex-C.1 - Disability Certificate shows that there is no scope for the petitioner's disability being reduced. As stated above, the petitioner was facing difficulty in movements at time of medical examination which was about two years after the accident. The said fact shows that the petitioner suffers from loss of certain amenities. Further, in view of the grievous injuries sustained and its lasting effects on the petitioner's mobility, his marital prospects is also slightly affected. Hence, this Court is of the view that the compensation of Rs.1,00,000/- awarded under the head of loss of amenities is reasonable. The compensation awarded by the Tribunal under the other heads namely extra nourishment, damages to clothes and attender charges, also are also reasonable.



WEB COPY **CONCLUSION**

24. In view of the foregoing narrative, the petitioner is entitled to compensation as tabulated below :

S. No.	Head	Amount awarded by the Tribunal	Amount re-quantified by this Court	Status
1	Future loss of earning capacity [Rs.12,000/-(NI)X 40% (FP) = Rs.16,800/-; Rs.16,800 X 60/100 X 18 (M) X 12(m)	Rs.12,70,000/-	Rs.21,77,280/-	Enhanced
2	Medical expenses	Rs.9,01,300/-	Rs.9,01,300/-	Confirmed
3	Pain and suffering	Rs.1,00,000/-	Rs.1,00,000/-	Confirmed
4	Transportation expenses	Rs.72,000/-	Rs.72,000/-	Confirmed
5	Additional nourishment	Rs.15,000/-	Rs.15,000/-	Confirmed
6	Damages to the clothes	Rs.1,700/-	Rs.1,700/-	Confirmed
7	Attender charges	Rs.10,000/-	Rs.10,000/-	Confirmed
8	Loss of amenities	Rs.1,00,000/-	Rs.1,00,000/-	Confirmed
9	Future medical expenses	Rs.50,000/-	Rs.50,000/-	Confirmed
	Total compensation	Rs.25,20,000/-	Rs.34,27,280/-	Enhanced
Note: 1) NI = Notional Income 2) FP = Future Prospects 3) M = Multiplier 4) m = Months				

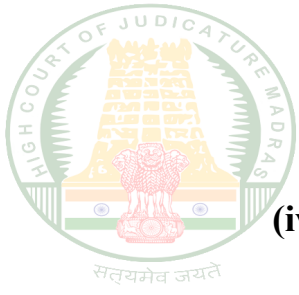


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25. Therefore, the appellant in C.M.A. No.3839 of 2025 / second respondent in C.M.A. No.90 of 2026 / insurance company is directed to deposit the modified award amount of **Rs.34,27,280/- [Rupees Thirty Four Lakhs Twenty Seven Thousand Two Hundred and Eighty only]** along with interest at the rate of **7.5% per annum** from the date of claim petition till the date of deposit, to the credit of M.C.O.P. No.268 of 2023 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Court, Krishnagiri, less the amount if any already deposited, within a period of eight (8) weeks from the date of receipt of copy of this Judgment. In all other aspects, the Award of the Tribunal shall hold good.

26. Resultantly,

- (i)** C.M.A.No.3839 of 2025 filed by the Insurance Company is dismissed.
- (ii)** C.M.A.No.90 of 2026 filed by the petitioner / claimant is allowed in part with proportionate costs throughout, as detailed above.
- (iii)** Considering the facts and circumstances of the case, there shall be no order as to costs in C.M.A. No.3839 of 2025.



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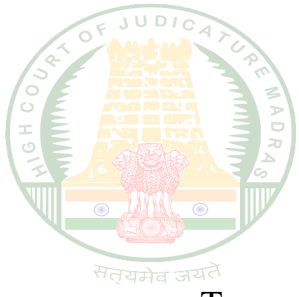
(iv) Consequently, connected Civil Miscellaneous Petition is closed.

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[N.S.K., J.] [R.S.V., J.]

17 / 02 / 2026

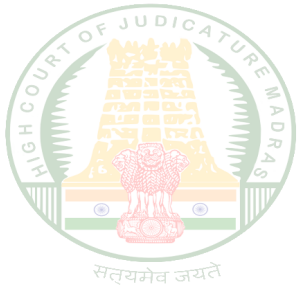
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Speaking Order : Yes / No
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To
The Motor Accident Claims Tribunal /
Special Subordinate Court,
Krishnagiri



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C.M.A. NOS.3839 OF 2025 & 90 OF 2026

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

TK

PRE-DELIVERY COMMON JUDGMENT MADE IN
C.M.A. NOS.3839 OF 2025 AND 90 OF 2026

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