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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-08-2026

CORAM

THE HON'BLE MR JUSTICE N. SATHISH KUMAR

AND

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

CMA No. 1992 of 2026

and CMA No. 1002 OF 2026

Shriram General insurance Co Ltd.,
Moogambigai Complex No.4, Lady Desika Road,
Mylapore, Chennai 600004

..Appellant(s)

Vs

1. S.Sai AravindS/o L.Sakthivel, No.3, 1st Street, Arasan Nagar, West Tambaram, Chennai 600 045
2. R.AnbazhaganS/o Ramalingam No.5, Pillayar Koil Street, Chelliamman Nagar, Periya Angasal, Keerpakkam, Chennai 600048

..Respondent(s)

CMA No. 1002 of 2026

S. Sai AravindS/o. Sakthivel, No.3, 1st Street,
Arasan Nagar, West Tambaram, Chennai 045.

..Appellant(s)

Vs

1. R. AnbazhaganS/o. Ramalingam, No.5, Pillaiyar Koil St, Chelliamman Nagar, Periya Angasal, Keerapakkam, Chennai 048.

2. Sriram General Insurance Co.ltd.,Moogambigai Complex, 2nd Floor, No.4, Lady Desika Road, Mylapore, Chennai 4.

..Respondent(s)

CMA No. 1992 of 2026

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the Order dated 28.11.2025 made in MCOP.No.1992 of 2019 on the file of the Motor Accident Claims Tribunal, (II Court of Small Causes), Chennai and be pleased to dismiss the claim for compensation and thus render justice

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CMA No. 1002 of 2026

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to enhance the compensation awarded in the Judgement and Decree dated 28.11.2025 passed in MCOP No.1992 of 2019 on the file of the Motor Accident Claims Tribunal, Chennai (In the II Court of Small Causes, Chennai).

CMA No. 1992 of 2026

For Appellant(s): S.Dhakshnamoorthy in CMA.No.1992/2026
K.Balaji in CMA.No.1002 of 2026

For Respondent(s): Mr.K.,Balaji
for R1 in CMA.No.1992 of 2026

S.Dhakshnamoorthy
for R2 in CMANo.1002 of 2026

Judgment

(Judgment of the Court was delivered by M.Jothiraman J.)

Insurance Company has preferred the appeal in CMA.No.1992 of 2026 aggrieved over the compensation awarded in award dated 28.11.2025 in MCOP.No.1992 of 2019 on the file of the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai. The claimants preferred the appeal in CMA.No.1002 of 2026 seeking enhancement of compensation.

2. According to the appellant in CMA.No.1002 of 2026 / claimants on 26.12.2018 at about 14.45 hours, while the claimant was riding the motor cycle bearing Reg.No.TN 11 AA 3220 proceeding at the left side of the GST Road, In front of Anjappar Hotel, Chrompet, Chennai, at that time, a tipper lorry bearing Reg.No.TN22 BV 4789 driving by its driver in a rash and negligent manner, came from north to south and hit the back side of the said motorcycle, due to

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which the claimant sustained grievous injuries. The 1st respondent therein / owner of the lorry did not appear before the Tribunal and was set exparte.

3. The appellant in CMA.No.1992 of 2026 / 2nd respondent therein filed a counter statement, wherein it has been stated that the 2nd respondent therein originally gave a policy 421010/31/18/014699, since the 1st respondent therein promised to pay premium by a cheque bearing No.000270 for Rs.41,557/- drawn on ICICI Bank, Sowcarpet Branch, Chennai dated 30.03.2018. When the said cheque was presented, the same was returned by the banker for funds insufficient on 04.04.2018. The appellant insurance company has sent an intimation for cancellation of policy to the 1st respondent / owner of the lorry and RTO on 06.04.2018 by registered post. In the absence of any contract, the appellant Insurance Company is not entitled to indemnify the owner of the lorry / 1st respondent therein for any loss out of accident dated 26.12.2018.

4. On behalf of the claimant, the claimant examined himself as PW1 and Exs.P1 to P16 were marked. On the side of the second respondent, one Mr.Gnanaraj was examined as RW1 and Exs.R1 to R6 were marked. The Disability Certificate issued by the Regional Medical Board, Rajiv Gandhi Government General Hospital, Chennai was marked as Ex.C1.

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5. Upon consideration of evidence adduced on either side, the Tribunal found that as per the oral evidence of PW1 and through documentary evidence, the claimant has established its case and there is no contra evidence adduced to disprove the manner of accident by the appellant herein. The Tribunal has come to the conclusion that the accident had occurred due to the rash and negligent driving of the driver of the lorry bearing Reg. No.TN 22 BV 4789. As per the evidence of RW1, which shows that for purchasing the policy of the appellant insurance company, the 1st respondent had issued a Cheque dated 30.03.2018 and based on that cheque, the 2nd respondent therein issued a policy for the period from 30.03.2018 to 29.03.2019 and as per Ex.R3, it is found that the policy was cancelled on the same day i.e., 30.03.2018, even before return of cheque and as per Ex.R4, it was found that the cheque was presented only on 03.04.2018 i.e., without even verifying whether there is sufficient funds in the account pertaining to the cheque. As per Exs.R5 and R6, it was found that the intimation of cheque return memo was given to the 1st respondent / owner of the lorry and cancellation notice was issued to RTO only on 05.04.2018, for which acknowledgement was not filed. Therefore, the Insurance Company had failed to prove that the cancellation of policy was intimated to the 1st respondent / owner of the lorry and the RTO and the claimant is a 3rd party to the police agreement.

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6. The learned Tribunal also found that as per Exs.R5 and R6 shows that it is a self serving document, as the original postal receipt was not marked, and there is no acknowledgement of intimation sent to the owner of the vehicle or RTO and therefore, the Insurance Company has failed to establish that the 1st respondent has acted against the terms of the policy. Insurance Company also failed to prove that the policy was in existence at the time of accident and comes to the conclusion that being the insurer, the Insurance Company is liable to pay compensation. The Tribunal considering the disability certificate issued by the Medical Board under Ex.C1 and the percentage of permanent disability at 32% awarded Rs.5,000/- per percentage. The claimant was computer operator in Vivahaa Cards, Tambaram and was earning Rs.10,000/- per month as income at the time of accident. However, the Tribunal considering the relevant factor that the accident was happened in the year 2018 and other relevant factors, fixed Rs.10,000/- as the monthly notional income of the injured claimant. The Tribunal, considering the nature of treatment taken in various hospitals and consideration of medical bills produced by the claimant, awarded compensation under the following heads:

Heads of Compensation	Amount awarded by the Tribunal (Rs.)
Disability Rs.5,000 x 32	1,60,000
Pain and Suffering	30,000
Transportation	4,000
Medical Expenses	30,04,930
Extra Nourishment	10,000
Attender Charges	12,600

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Damage of Clothes	1,000
Loss of Amenities	10,000
Loss of Earnings	20,000
TOTAL	**32,52,530**

7. Aggrieved over the same, the insurance company has preferred CMA.No.1992 of 2026 and not satisfied with the quantum of compensation, the claimant has preferred CMA.No.1002 of 2026.

8. The learned counsel appearing for the appellant in CMA.No.1992 of 2026 / Insurance Company would submit that when the premium towards an insurance policy is paid by cheque and the same is dishonoured, the policy becomes void abi initio in terms of Section 64VB of the Insurance Act, 1938. The Tribunal erred in failing to consider that the policy in the present case was issued on 30.03.2018 against a cheque, which was subsequently dishonoured due to insufficiency of funds. Consequently, the policy stood cancelled from inception and the appellant Insurance Company had duly intimated the cancellation to the owner of the vehicle as well the concerned RTO. The Tribunal failed to appreciate that the accident occurred on 26.12.2018 long after the cancellation of the policy. Though the appellant insurance company has established the fact the due intimation was given to the owner and the RTO and despite the evidence adduced, the Tribunal erroneously fastened the liability on the Insurance Company. The Tribunal has also awarded excessive amount towards medical expenses, without properly scrutinizing whether the treatment

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expenses were directly attributable to the injuries sustained in the accident. The findings of the Tribunal are contrary to the settled legal principles and therefore, liable to be set aside.

9. *Per contra*, learned counsel appearing for the appellant in CMA.No.1002 of 2026 / claimant would submit that the Tribunal failed to appreciate the evidence of the injured and failed to consider the disability certificate issued by the medical board. The Tribunal ought to have applied Multiplier method as contemplated under Motor Vehicles Act, 1988 for arriving at the compensation for disability, since the injury sustained for the disability suffered cannot be measured in terms of money. The Medical Board ought to have taken disability of 100% towards of Loss of Earning power, since the disability suffered by the claimant would affect his earning capacity throughout his life and therefore, the Tribunal has taken 100% towards loss of earning power. The Tribunal ought to have taken the income of the deceased at Rs.25,000/- per month since he was working as Computer Operator and adopting the Multiplier method has arrived at the monthly income of the deceased. To strengthen his contention, the learned counsel for the claimant has relied upon the decision in ***United India Insurance Co. Ltd. V. Laxmamma and Others [2012 ACJ 1307]***, to show that when the cancellation of policy was done after the accident; the insurance company may prosecute its remedy to recover the amount paid to the claimants from the insured. The Tribunal has

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awarded only meager amounts in respect of other heads also. The learned counsel for the claimant further would submit that the insurance company has failed to establish their case that the policy was originally covered for the period from 30.03.2018 to 29.03.2019 and the cancellation of the policy was duly intimated to the owner of the vehicle and the RTO concerned by substantiating with acceptable evidence.

10. We have considered the submissions made on either side and perused the entire materials available on record.

11. There is no serious dispute with regard to the negligent fastened as against the 1st respondent's tipper lorry driver, who drove the lorry in a rash and negligent manner. According to the claimant / 1st respondent therein, the vehicle was insured with the appellant insurance company under Policy No.421010/31/18/014699, which was valid from 30.03.2018 to 29.03.2019, i.e., on the date of the accident on 26.12.2018. Therefore, according to the claimants at the time of accident, the policy was in force. *Per contra*, according to the Insurance Company, though the 1st respondent / owner of the lorry has issued Cheque bearing No.000270 dated 30.03.2018 for a sum of Rs.44,557/- drawn on ICICI Bank, Sowcarpet Branch and the same was subject to the condition that if the premium is paid by cheque, it is it is construed as void abinitio in case of dishonour. According to the Insurance Company, the cheque issued by the

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owner of the lorry was returned "Funds Insufficient" vide endorsement dated 04.04.2018. Immediately the Insurance Company cancelled the policy and informed the same to the 1st respondent / owner and the RTO concerned.

12. It is seen from the records that Ex.R3- copy of the cheque bounced, Ex.R4-Return Memo from the bankers, Ex.R5 – Notice of cancellation said to have been issued to the owner of the vehicle and Ex.R6- Cancellation of policy intimated to the RTO concerned. In order to substantiate the claim of the Insurance Company, RW1 – Gnanaraj – legal executive was examined. RW1 deposed that for purchasing the insurance policy, the owner of the lorry had issued a cheque dated 30.03.2018 and that the Insurance Company had issued the policy for the period from 30.03.2018 to 29.03.2019 and as per Ex.R3 which shows that the policy was cancelled even before return of the cheque. It is seen from Ex.R4 that the cheque was presented for payment only on 03.04.2018, which clear proves that without even verifying whether there is sufficient funds in the account pertaining to the cheque, the policy has been issued by the company and from Exs.R5 and R6, it is found the intimation of cheque return memo was given to the owner of the lorry and RTO on 05.04.2018. It is relevant to note that Insurance Company has not filed any acknowledgement proof to show that the cancellation of policy was duly intimated to the owner of the vehicle as well as the cheque has been returned for want of sufficient funds. Further, it is to be noted that no evidence was let in as to what steps they have

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taken to prevent public from utilizing the alleged policy or to initiate the 1st respondent to pay the premium amount.

13. It is relevant to note that a Full Bench Judgment of the Kerala High Court reported in ***2019 (1) TN MAC 274 (FB) (Ker.) in Prasanna.B Vs.Kabeer and Anr.*** wherein the Full Bench had examined the liability of the Insurer when a cheque issued towards premium was dishonoured. The Full Bench also examined the import of Section 27 of the General Clauses Act. The reasoning of the Full Bench was as follows:

> "3. The surest way to prove that the Intimation has been sent by the Insurer about the cancellation of the Insurance coverage is to dispatch it by Registered Post with or without Postal Acknowledgment. The production of the receipt evidencing the dispatch by registered post raises a presumption in favour of the insurer that the intimation has been sent to the addressee for secured delivery. The fundamental difference between speed post and registered post is that the former is address specific and time bound whereas the latter is addressee specific. A presumption in favour of the sender for a properly addressed and prepaid post is supported in law too by Section 27 of the General Clauses Act, 1897 which is extracted hereunder:
>
> "27. Meaning of service by post.- Where any Central Act or Regulation made after the commencement of this Act authorizes or requires any document to be served by post, whether the expression 'serve' or either of the expression 'give' or 'send' or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre-paying and posting by registered post, a letter containing the document, and unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post."
>
> It would suffice if the insurer establishes prima facie that the letter about the cancellation of insurance coverage sent under Certificate of Posting or by registered post would have been delivered in the ordinary course.

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4. A period of one week from the date of dispatch can safely be adopted as the time necessary to serve the letter in the ordinary course after which the intimation is presumed to have been served on the addressee. The period is so fixed in the absence of any provision to the contrary for the limited purpose of the cases of this nature to avoid disputes as to the date of receipt of the intimation. ***The insured in some cases may try to evade the service of notice and the letter would be returned with postal remarks like 'addressee left', 'house locked', 'insufficient address' etc. The burden is on the addressee to rebut the presumption by conclusive evidence that he did not really receive the letter and it is not a case of deliberate avoidance. The burden is not on the insurer to establish conclusively that the intimation of cancellation of insurance coverage was in fact served on the insured or the registering authority***. The judgment in M.A.C.A.No.2471/2015 to the effect that it is the obligation of the insurer to establish the service of the intimation on the addressee is hereby overruled. Needless to say that no liability can be fastened on the insurer for any compensation payable in respect of an accident that occurs after the service of the intimation aforesaid. The reference is answered accordingly.

14. In the case on hand, it is seen from the evidence of RW1 in his cross examination that he denies about the fact of dishonour of cheque and cancellation of policy was intimated to the RTO concerned and there is no concrete evidence adduced by RW1 to that effect. In the absence of any proof to show as to the cancellation of policy and dishonour of cheque duly intimated to the 1st respondent / owner of the lorry and to the RTO concerned, the injured / claimant, who is a 3rd party to the agreement cannot put into any suffering. The Insurance Company has not chosen to examine the RTO concerned whether the cancellation of the policy was duly intimated to the RTO office concerned and the insurance company has not filed any document to show that the owner of the lorry has been duly summoned to adduce evidence that the insurance company

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has duly discharged its burden. When the intimation regarding cancellation of the policy has not been duly served to the owner of the lorry and the RTO concerned before the accident, the Insurance Company is liable to indemnify the 3rd party will not be terminated and hence, the Insurance Company is liable to satisfy the compensation claimed by the claimants. The burden of proof is heavy on the Insurance Company to prove that the 1st respondent has acted against the terms of the policy and in the absence of any valid proof, 3rd party should not made to suffer. It is relevant to refer the judgment of the Hon'ble Supreme Court in ***Oriental Insurance Co. Ltd. v. Inderjit Kaur and Ors. [1998 (1) SCC 371]*** wherein it has been held that the Cheque issued towards the premium had been dishonoured and the Insurer had informed the insured that the Cheque had been dishonoured and that the Insurer would not be at risk, but still it had been held that the Insurer though was entitled to avoid the Policy, was however liable for third party risks as the public interest served by an Insurance Policy must prevail over the Insurer's interest.

15. It is seen from the evidence of RW1, in his cross examination, he has admitted that he has not filed the original cheque issued by the owner of the lorry and he has produced only a copy of the cheque alone. He also admits that he has not filed any acknowledgment to prove that the cancellation of insurance policy has been duly received by the owner of the lorry as well as the RTO concerned. We are of the view that the Insurance Company has failed to prove

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that the policy was in existence at the time of accident and there is violation of terms of the policy on the side of the lorry owner was not proved. Therefore, the Tribunal has rightly come to the conclusion that the 2nd respondent / Insurer of the offending vehicle is liable to pay compensation to the claimant.

16. According to the claimant, though the claimant has suffered disability @ 32% assessed by the Medical Board, ought to have assessed 100% disability of earning power. According to the claimant, the Tribunal erred in awarding meagre amounts under all other heads, which is not sustainable in law and seeks enhancement of compensation on the ground that the Tribunal has not considered the nature of injury, period of treatment and compensation under other heads.

17. It is seen from the records that the claimant has taken treatment as in-patient for 42 days and also undergone surgery. The above said facts are not seriously disputed by the insurance company. According to the claimant, he was working as Computer Operator and was earning Rs.10,000/- per month at the time of accident. In order to prove the income of the claimant, he has not produced any documentary evidence. In the absence of proof of income, the Tribunal has fixed notional income of the claimant as Rs.10,000/- per month and there is no infirmity in the notional income arrived by the Tribunal by relying upon the ratio laid down by this Court in the decision in

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M.Chinnathambi v. S.Deepa and National Insurance Company Limited reported in 2020 (1) TNMAC 617.

18. With regard to percentage of disability, it is relevant to refer ***Chinnathambi case (cited supra)***, wherein this Court has awarded Rs.5000/- for each percentage of disability for the accident took place from the year 2016 onwards. Hence, in the case on hand, considering the percentage of disability and the year of the accident, the Tribunal has ordered Rs.5,000/- towards each percentage of disability, which in our view is just and proper compensation.

19. The compensation awarded by the Tribunal under the head Pain and Suffering was Rs.30,000/-. It is relevant to refer the judgment of the Hon'ble Supreme Court in the decision in ***K.S.Muralidhar v. R.Subbulakshmi [2024 SCC Online SC 3385]*** wherein the Hon'ble Apex Court has observed as under:

> "14.5 In ***Lalan v. Oriental Insurance Company Ltd., [(2020) 9 SCC 805]*** cited by the claimant-appellant, the Tribunal awarded Rs.30,000/- which was enhanced to Rs.40,000/- by the High Court. Considering the fact that the appellant therein has suffered extensive brain injury awarded compensation under 'pain and suffering' to the tune of Rs.3,00,000/-."

By applying the ratio laid down in the above cited decision, in the case on hand, the compensation awarded under pain and suffering is enhanced from Rs.30,000/- to Rs.1,00,000/-.

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20. With regard to transportation charges, the claimant took treatment as In-patient for 42 days in Paravathy Hospital, Chennai, Tagore Speciality Hospital, Chennai, Vedanayagam Hospital Pvt. Ltd. Coimbatore and Hariharan Diabetes & Heart Care Hospital Pvt. Ltd. Chennai and the Tribunal has awarded Rs.4,000/-. Considering the place where the accident had occurred and the distance to the hospital, this Court enhances to Rs.5,000/-. The compensation awarded by the Tribunal towards Medical Expenses to the tune of Rs.30,04,930/- and under Extra-Nourishment for a sum of Rs.10,000/- is just and fair and there is no infirmity in the award of compensation under the said heads. As regards, Attender Charges, the Tribunal found that the injured taken treatment as in-patient for 42 days and awarded @ Rs.300/- per day. However, considering the nature of treatment and the number of days treatment taken, this Court has enhanced the compensation under the head Attender Charges from Rs.3,00/- per day to Rs.1,500/- per day including day and night, in the light of the decision of the Hon'ble Apex Court in ***Kajal v. Jagdish Chand & Ors. [2020 INSC 135]***. In respect of compensation awarded under Damages to Cloths and Loss of Amenities, the compensation awarded by the Tribunal is just and fair and does not warrants any interference.

21. Though the claimant stated that he is affected with functional disability, in this regard, he has not produced any medical record to that effect and the claimant has not chosen to examine any independent witness to claim

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compensation under the head of Loss of Earning capacity. It is pertinent to mention that the person who treated the injured / claimant has not been examined to establish the factum of loss of earning capacity. The claimant has not established that he requires the assistance of attender throughout his life.

22. In the light of the above discussions, this Court enhances the compensation as under:

Heads of Compensation	Amount awarded by the Tribunal (Rs.)
Disability Rs.5,000 x 32	1,60,000
Pain and Suffering	1,00,000
Transportation	5,000
Medical Expenses	30,04,930
Extra Nourishment	10,000
Attender Charges (1500 x 42)	63,000
Damage of Clothes	1,000
Loss of Amenities	10,000
Loss of Earnings	20,000
TOTAL	**33,73,930** **(Rounded Off) 33,74,000**

23. In the light of the above, ***CMA.No.1002 of 2026 filed by the claimant, stands partly allowed*** and the award dated 28.11.2025 made in MCOP.No.1992 of 2019 on the file of the MACT, II Court of Small Causes, Chennai is modified to the effect that the claimant is entitled to a compensation of Rs.33,74,000/-. The manner and mode of disbursement of compensation shall be as per the order of the Tribunal. ***CMA.No.1992 of 2026 filed by the***

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Insurance Company stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

(N.S.K.,J.) (M.J.R.,J.)
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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
Jvm.

To
MACT, II Court of Small Causes, Chennai

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