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C.M.A.No.649 of 2022 & Cross.Obj.No.79 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2025

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.No.649 of 2022
and Cross Objection No.79 of 2025
and CMP.No.4615 of 2022

C.M.A.No.649 of 2022:

The Manager,
HDFC Ergo General Insurance Co., Ltd.,
Shop Nos.G3, G4 Part,
Rear Side, No.111, Achutha Bharathidasan Salai,
Contonment, Trichy 620 001. .. Appellant/2nd respondent

vs.

1.Rajamani .. 1st Respondent/Petitioner
2.Ramesh 2nd respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the Judgment and Decree dated 04.03.2021 made in M.C.O.P.No.65 of 2020 on the file of the Motor Accident Claims Tribunal/ Special Court No.II, Jeyankondam.



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For Appellant : Mr.T.K.Prem Kumar

For 1st Respondent : Mr.P.Parthikannan

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Cross.Obj.No.79 of 2025:

Rajamani

..Cross-Objector

vs.

The Manager,
HDFC Ergo General Insurance Co., Ltd.,
Shop Nos.G3, G4 Part,
Rear Side, No.111, Achutha Bharathidasan Salai,
Contonment, Trichy 620 001.

2.Rameshu

.. Respondents

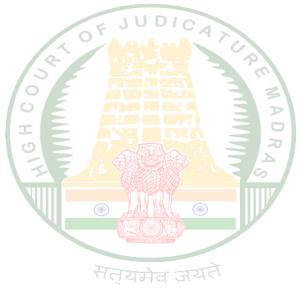
Prayer: Cross-Objection is filed under Order XXXXI, Rule 22 of the C.P.C., to enhance the compensation amount in M.C.O.P.No.65 of 2020 on the file of the Motor Accident Claims Tribunal (Special Court No.II) Jeyankondam.

For Cross-Objector : Mr.P.Parthikannan

For 1st respondent : Mr.T.K.,Premkumar

COMMON JUDGMENT

C.M.A.No.649 of 2022 has been preferred against the Award dated 04.03.2021 made in M.C.O.P.No.65 of 2020 on the file of Motor Accident



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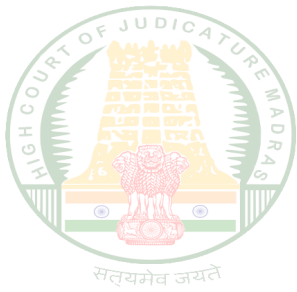
Claims Tribunal/ Special Court No.II, Jeyankodam, by the second respondent /Insurance Company herein on the liability issue.

2. Cross-objection No.79 of 2025 has been preferred by the claimant for enhancement of compensation.

3. Parties are indicated herein as per their litigative status and ranking before the Tribunal.

4. The claim petition was filed by the claimant/pedestrian is said to have been hit by the rider of the motor cycle, claiming compensation of Rs.20,00,000/- for the injuries sustained in a road traffic accident that occurred on 21.07.2018.

5.The Tribunal upon consideration of evidence, granted compensation of Rs.5,58,447.60 payable by the second respondent/Insurance Company with interest at the rate of 7.5% per annum from the date of filing of claim petition.

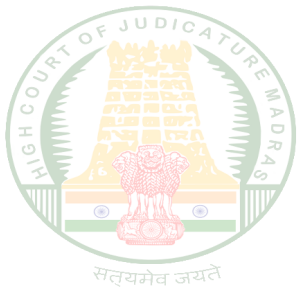


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6. The learned counsel for the appellant/Insurance Company would contend that the rider of the motorcycle bearing Reg.No.TN.61P.1342 was ridden by the vehicle owner's son Rajkumar, who had only Learner's License Registration(LLR) to ride the two wheeler without any supervision, which resulted in the accident thereby the first respondent /owner of the two wheeler has violated the policy condition. Therefore, the second respondent is not liable to pay compensation to the claimant herein. He would further contend that the claimant is said to be running a petty shop and the Tribunal, in consideration of age, avocation, income of the claimant, has granted compensation of Rs.5,58,447.60 under various heads which are reasonable and does not warrant any interference by this Court.

7. Whereas, the learned counsel for the claimant/(cross objection No.79/2025) would contend that the injured suffered segmental both bone right leg fracture. For which, closed reduction and internal fixation with plate was done at JIPMER Hospital, Pondicherry on 25.07.2018 as per Ex.P7-discharge summary. He was admitted at the said hospital on the next day of accident i.e. 22.07.2018 and only discharged on 19.08.2018.



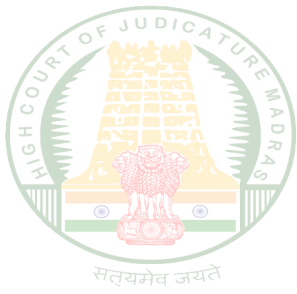
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8. The District Medical Board assessed the disability of the claimant at 40% and the Tribunal has granted Rs.5,000/- per percentage is inadequate. Further, it was putforth that the claimant was running a petty shop and also doing milk vending business, for which the Tribunal fixed the monthly income as Rs.12,000/- is less.

9. It has come on record through the evidence of P.W.1 that on 21.07.2018 at about 7.00 p.m. when the injured Rajamanickam was walking on the left side of Jeyankondam-Senthurai Main Road towards west direction, a rider of the motorcycle bearing Reg.No.TN.61P.1342 came in a rash and negligent manner from east-to west and hit upon her and she was thrown out and sustained fracture below the right knee besides various injuries sustained over the body.

10. It was contended by the insurance company that the driver of the first respondent has no valid and effective driving license at the time of accident. The first respondent has wilfully breached the police terms and conditions. Therefore, the second respondent is not liable to pay compensation to the petitioner.

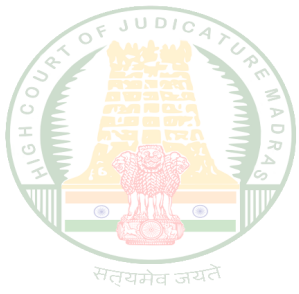


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11. It is the evidence of RW1 Smt.Lakshmi Nagarajan, staff of Regional Transport Office, Ariyalur that the rider of the two wheeler – Rajkumar was issued LLR (Learner's License Registration) on 25.06.2018 vide Ex.R4. He would also state that he was granted driving license on 27.07.2018(Ex.R3). Through the evidence of RW1, it is made clear that on the date of accident, the rider was in possession of LLR (Learner's License Registration).

12. Mr.Arun Prasad, Manager(Legal) of the Insurance Company has been examined as RW1. It is his evidence that the motor cycle bearing Reg.No.TN.61P. 1342 owner of the motorcycle has taken the policy in the second respondent /Insurance Company. On the relevant date, the owner of the motorcycle has allowed his minor son to drive the motorcycle ,thereby violated the policy condition. RW1 has stated about the LLR ((Learner's License Registration) issued to the rider of the motorcycle at the relevant point of time and he would state that the first respondent/owner of the motorcycle has violated the policy condition and the Insurance Company is not liable to pay compensation to the claimant herein.



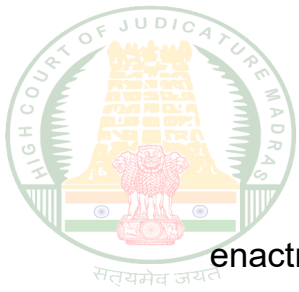
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13. It is relevant to refer to the observations made by the Hon'ble Supreme Court in ***National Insurance Company vs. Swaran Singh 2004(1)TNMAC 104 SC***, wherein it has been held that the liability of the Insurance Company in cases of breach of policy condition, due to the disqualification of the driver or invalid driving license of the driver in respect of the third party risk, the insurer has to indemnify the compensation amount to the third party and later recover the same from the insured.

14. Section 3(2) and 6 of the Act provides for the restriction in the matter of grant of driving licence. Section 7 deals with such restrictions on granting of learner's licence. Section 8 and 9 provide for the manner and conditions for grant of driving licence. Section 15 provides for renewal of driving licence. Learner's licences are granted under the rules framed by the Central Government or the State Governments in exercise of their rule making power. Conditions are attached to the learner's licence granted in terms of the statute. A person holding learner's licence would, thus, also come within the purview of "duly licensed" as such a licence is also granted in terms of the provisions of the Act and the rules framed thereunder. It is now well-settled principle of law that rules validly framed become part of the statute. Such rules are, therefore, required to be read as a part of main

7/15



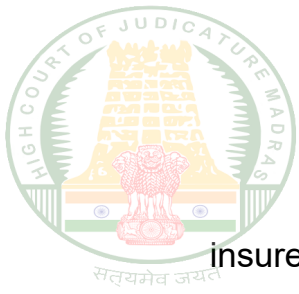
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enactment. It is also well-settled principle of law that for the interpretation of statute an attempt must be made to give effect to all provisions under the rule. No provision should be considered as surplusage. If a vehicle at the time of accident was driven by a person having a learner's licence, the insurance company would be liable to satisfy the decree.

15. In this regard, it is relevant to refer to the Rule 3 of the Central Motor vehicle Rule i) the person holding Learner's License should be accompanied by any instructor holding an effective Driving License and such instructor should be in a position to control or stop the vehicle, ii)The vehicle in question should be painted both in the front and rear side with letter "L".iii) At the time of receiving instructions or gaining experience in driving, no third party should be carried in the said motorcycle.

16. From a perusal of the above said provisions, it is pellucid that if the above said conditions are satisfied, then the Learner's License would be considered to be an effective driving licence.

17. Under Section 149(1), after a third party has obtained order against any person insured under the policy in respect of the liability required to be covered by Section 145, the same must be satisfied by the

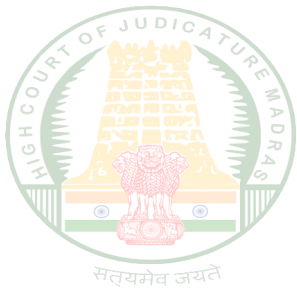


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insurer, notwithstanding the fact that the insurer may be entitled to avoid the policy. If a liability is established, then the insurance company has to honour the same. Any condition in the insurance policy, whereby the right of the third party is taken away could not be valid.

18. It is also pertinent to note that the claimant is a third party. He is a victim of accident and suffered injuries. Whereas, the Insurer's liability arises both from contract as well as statute. Section 149(1) imposes liability upon the insurer to pay to the person entitled to the benefit of the decree. The insurer is deemed to be a Judgment debtor in respect of the liability of the insurer.

19. On the side of the Insurance Company, no ocular witness was examined to prove the fact that whether the rider of the bike was accompanied by any trainer at the time of accident. P.W.1 has also not stated as to whether the rider of the motorcycle was accompanied by any person at the relevant point of time. So it has to be construed that the rider of the motor cycle was driving the two wheeler with a Learner's Licence without being accompanied by her instructor as per Rule 3 of Central Motor Vehicles Rules.



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20. Learner's licence is valid for a period of six months and thereafter he or she should pass the driving test so as to obtain an effective driving licence. Section 6 of the Central Motor Vehicles Act, distinguishes the driving license from a learner's licence. Therefore, this Court is of the considered view that the said breach is a fundamental breach of policy condition. The owner of the vehicle has allowed his son to drive the vehicle with a learner's license. The said details have been established by the Insurance Company by examining RW1 and RW2. Therefore, the owner has violated the policy condition and also violated the provisions of Motor vehicles Act.

21. In such circumstances, saddling the entire liability upon the insurance company is not correct and it is ordered that the insurance company shall indemnify the insured, who is a third party at the first instance, and to recover the same from the first respondent at a later point of time.

22. It is evidence of P.W.1 that on account of the accident, she suffered closed segmental both bone right leg fracture and she was running a stationary store and doing milk vending business, earning a sum of 10/15



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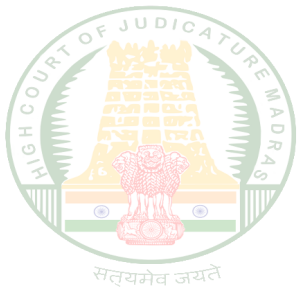
Rs.12,000/- per month and through running a stationery shop and earning

Rs.15,000/- per month.

23. To prove the avocation, Ex.P.20 issued by Jayankondam Municipality has been filed wherein the claimant has paid an amount of Rs.100/- as Trade License Fee. It is issued on 29.01.2020. But the date of accident is 29.07.2018.

24. In consideration of the above said details, her income has been fixed as Rs.12,000/- per month. For loss of income during treatment period, a sum of Rs.60,000/- is granted. The medical board has assessed the disability of the claimant as 40%. The claimant has suffered closed segmental both bone right leg and implants have been fixed over the right leg. The treatment records are Ex.P.5 to Ex.P.11, Ex.P.13, Ex.P.16, Ex.P.17 and Ex.P.19. Therefore, her functional disability is taken as 40%.

25. In consideration of the date of accident, age of the injured and nature of the fractures suffered in order to meet the ends of justice, Rs.7,000/- per percentage is granted. (Rs.7,000 x 40% = Rs.2,80,000) (for Disability). For loss of amenities, a sum of Rs.25,000/- is granted.

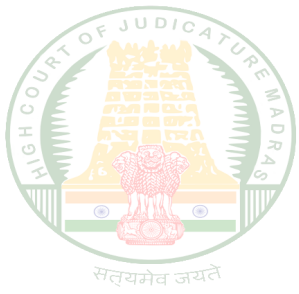


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26. As regards the other heads, the amounts granted by the Tribunal appear to be reasonable and acceptable, and it does not warrant any interference by this Court. The compensation awarded as mentioned supra is reworked and tabulated as given hereunder:

Sl.No.	Description	Amount Awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced
1	For disability	2,00,000/-	Rs.2,80,000/-	Enhanced
2	For medical expenses	1,61,947.60/-	1,61,947.60/-	confirmed
3	For transport expenses	92,500/-	92,500/-	Confirmed
4	For attender charges	36,000/-	36,000/-	Confirmed
5	For pain and sufferings, extra nourishment and for future medical expenses	50,000/-	50,000/-	Confirmed
6	For loss of income during the treatment period	18,000	60,000/-	Enhanced
7	For loss of amenities	-	25,000/-	Granted
	Total	Rs.5,58,447.60	Rs.7,05,447.60	
	Rounded off as		Rs.7,05,000/-	



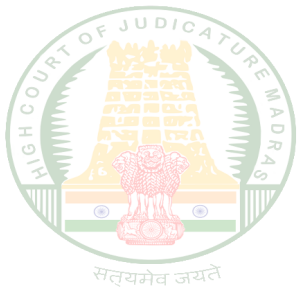
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27. Thus, the compensation awarded by the Tribunal is enhanced from Rs.5,58,447.60/- to Rs.07,05,000/- which would carry interest at the rate of 7.5% per annum.

28. In the result,

- (i) C.M.A.No.649 of 2022 stands allowed.
- (ii) Cross Obj.No.79 of 2025 stands partly allowed.
- (iii) The Compensation awarded by the Tribunal is enhanced from Rs.5,58,447.60 to Rs.7,05,000/-.
- (iv) The first respondent/ Insurance Company is directed to deposit the enhanced compensation amount now determined by this Court i.e., Rs.7,05,000/- (less the amount already deposited if any) together 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.65 of 2020 on the file of Motor Accidents Claims Tribunal / Special Court No.II, Jeyankondam, within a period of six weeks from the date of receipt of a copy of this Judgment, at the first instance and later recover the same from the 2nd respondent / Owner of the insured vehicle.



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(v) On such deposit being made, the appellant / claimant is permitted to withdraw the amount now determined by this Court along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal.

(vi) The appellant / claimant is directed to pay the Court fee for the enhanced compensation amount, if required.

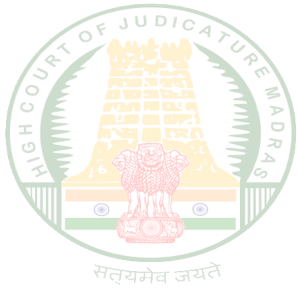
(vii) The Tribunal below shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimant. There is no order as to cost. Consequently, connected miscellaneous petition is closed.

26.11.2025

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

The Motor Accident Claims Tribunal,
Special Court No.II, Jeyankondam.



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C.M.A.No.649 of 2022 & Cross.Obj.No.79 of 2025

R.KALAIMATHI,J.

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