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CMA Nos. 50 & 2659 of 2



Order QR

SIN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-08-2026

CORAM

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

**CMA Nos. 50 & 2659 of 2026
& CMP.No.355 of 2026**

CMA/50/2026

M/s.IFFCO -TOKIO General Insurance Co. Ltd.,
Vinayaga Complex, 2nd Floor,
Opposite to Sakthi Mahal,
Perundurai – 638 011.

... Appellant

Vs

1.Narasimhan

2.Kousik

3.Mohanasundaram

4.Madhayan

5.Balakrishnan

6.The Chola mandalam MS General
Insurance Company Limited,
No.14, Sri Senniappa Complex,
Thiruvika Road, Erode – 638 011.

7.The National Insurance Co. Ltd.,
1st Floor, Karthikeya Complex,
No.403, B-10, Mettur Main Road,
Bhavani – 638 301.

... Respondents

CMA/2659/2026

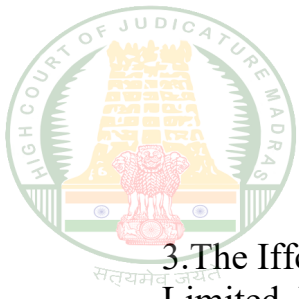
Narasimhan

... Appellant

Vs.

1.Kousik

2.Mohanasundaram



3.The Iffco-Tokio General Insurance Company,
Limited, Vinayaga Complex, 2nd Floor,
Opposite to Sakthi Mahal, Perundurai – 638 011.

4.Madhayan

5.Balakrishnan

6.The Cholamandalam MS General Insurance
Complex Limited, No.14, Sri Senniappa Complex,
Thiruvika Road, Erode – 638 011.

7.The National Insurance Company Limited,
1st Floor, Karthikeya Complex, No.403,
B-10, Mettur Main Road, Bhavani – 638 301.

... Respondents

Prayer in CMA/50/2026; The Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 09.06.2025 made in M.C.O.P.No.363 of 2023 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Judge, Erode.

Prayer in CMA/2659/2026: The Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award amount in the order dated 09.06.2025 made in MCOP No.363 of 2023, on the file of the Motor Accident Claims Tribunal/Special Subordinate Judge Court, Erode.

CMA/50/2026:

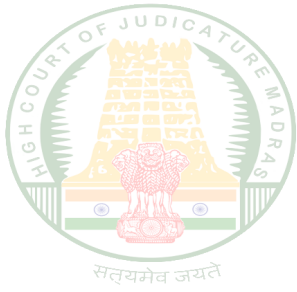
For Appellant(s): Mr.S.Arun Kumar

For Respondent(s): Mr.C.Paraneedharan for R1
Mr.N.Vijayaraghavan for R6

CMA/2659/2026:

For Appellant(s): Mr.C.Paraneedharan

For Respondent(s): Mr.S.Arun Kumar for R3

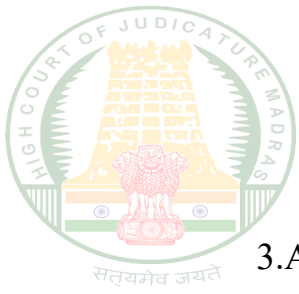


COMMON JUDGMENT

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The insurance company has preferred the appeal aggrieved over the pay and recovery ordered by the Tribunal in CMA.No.50 of 2026. For seeking enhancement of compensation, the claimant has preferred the appeal in CMA.No.2659 of 2026.

2.According to the claimant, on 03.12.2022, at about 04.30 p.m., when he drove the Maruthi Omni Car bearing registration No.TN 37 CJ 5041 on the Veppadai to Kumarapalayam road, East to West direction, near Perumal Kovil Pirivu, at that time, the fourth respondent drove the Mahindra Maximo vehicle bearing Reg.No.TN 34 Q 1292 from the opposite direction, at that time the 1st respondent rode the Splendor Plus motor cycle bearing Reg.No.TN 52 6285 from West to East direction and while overtaking the Mahindra Maximo vehicle bearing Reg.No.TN 34 Q 1292, dashed against the petitioner's Omni Car and thereby caused the accident. The claimant fell down on the road and sustained grievous injuries all over the body. The 1st respondent is the driver, the 2nd respondent is the owner and the 3rd respondent is the insurer of the offending Splendor Plus Motorcycle. The 4th respondent is the driver, the 5th respondent is the owner and the 6th respondent is the insurer of the Mahindra Maximo vehicle. The 7th respondent is the insurer of the Maruthi Omni Car.



3. According to the claimant, at the time of the accident, he was aged about 34 years and was doing coolie work and driving work and earning Rs.25,000/- per month.

4. The third respondent/Insurance Company has filed a counter statement wherein it has been stated that the 1st respondent had no driving licence to ride the Splendor Plus motorcycle bearing Reg.No.TN 52 6285 on the date of the accident. The claimant also had no driving license to drive the Maruthi Omni on the date of the accident. It is not admitted that the accident took place in the manner as narrated in the claim petition. It is also not admitted that the 1st respondent was riding the Splendor Plus motorcycle in a rash and negligent manner and caused the accident.

5. The sixth respondent/Insurance Company has filed a counter statement, wherein, it has denied the involvement of a vehicle bearing Reg.No.TN 34 Q 1292 and that the accident happened only due to the carelessness of the rider of the two wheeler bearing Reg.No.TN 52 6285, ie., the 1st respondent. The driver of the Mahindra Maximo bearing Reg.No.TN 34 Q 1292 ie., fourth respondent drove the same in a slow and steady manner following all the traffic rules and regulations from west to east direction on the left side of the road, at that time, the 1st respondent drove the motorcycle in the west to east direction in a



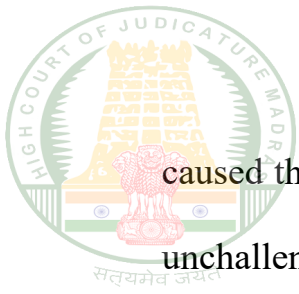
rash and negligent manner and over took the Mahindra Maximo and came into the wrong side of the road and hit against the petitioner's vehicle.

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6.The seventh respondent/Insurance Company has filed a counter statement wherein it has been stated that on the date of accident on 03.12.2022 at about 04.30 PM, the petitioner drove the Maruthi Car on the Veppadai to Kumarapalayam road from east to west direction. While so, the 1st respondent rode the Splendor Plus motorcycle in a rash and negligent manner and while overtaking a preceding vehicle TN 34 Q 1292, dashed against the petitioner's car and thereby caused the accident.

7.On the side of the claimant, the claimant examined himself as PW1 and Exts.P1 to P16 were marked. On the side of the respondents, RW1 was examined and Exts.R1 to R5 were marked. Ext.C1 disability certificate was also marked.

8.Upon appreciation of evidence on either side, the learned Tribunal found that as per the evidence of PW1, the claimant sustained injuries in a road accident occurred on 03.12.2022. Ext.P1, FIR shows that the rider of the Splendor Plus motorcycle bearing Reg.No. TN 52 6285, drove the vehicle in a rash and negligent manner and caused the accident. As per the testimony of PW1, Ext.P1 and Ext.R1, it the rider of the Splendor Plus motorcycle, who had



caused the accident. The Tribunal also found that the evidence of PW1 remains unchallenged with regard to the negligence aspect. As regards quantum, the learned Tribunal fixed the notional monthly income of the claimant, in the absence of proof of income, as Rs.12,000/- per month and awarded compensation under various heads as hereunder;

Sl.No.	Heads	Amount
1	Loss of Earnings	Rs.24,000.00
2	Transport to Hospital	Rs.2,000.00
3	Extra Nourishment	Rs.5,000.00
4	Attender Charges	Rs.5,000.00
5	Damages for Clothes and Articles	Rs.2,000.00
6	Pain and sufferings	Rs.30,000.00
7	Permanent Disability & Loss of Earning Power	Rs.1,60,000.00
	Total	Rs.2,28,000.00

9.At the time of the accident, the rider of the Splendor Plus Motorcycle did not possess a valid license. Hence, the Tribunal directed the Insurance Company(third respondent) of the offending vehicle to compensate the claimant and recover the same from the second respondent/owner of the offending vehicle.

10.Aggrieved over the finding of pay and recovery, the Insurance Company has preferred CMA.No.50 of 2026. Seeking enhancement of compensation, the claimant has preferred CMA.No.2659 of 2026.

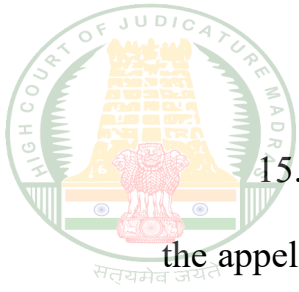


11. The learned counsel for the appellant in CMA.No.50 of 2026 would submit that after the amendment in the Motor Vehicles Act, pay and recovery cannot be ordered. Therefore, the finding of the Tribunal, in this regard, is unsustainable in law.

12. The learned counsel for the appellant in CMA.No.2659 of 2026 would submit that at the time of accident, the claimant was aged about 32 years. However, the Tribunal has fixed the notional monthly income of the claimant at Rs.12,000/- per month, which is very meagre. Though the medical board assessed the disability of the injured claimant at 20%, the Tribunal has awarded only Rs.8,000/- per percentage of injury, which is very meagre. The compensation awarded under the head 'Pain and Suffering' and other heads are also very meagre and the same has to be enhanced.

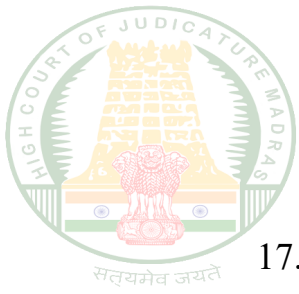
13. This Court considered the rival submissions made on either side and perused the materials available on record.

14. The injured himself has deposed as PW1. As per the evidence of PW1, he sustained injuries in a road accident occurred on 03.12.2022 at about 04.30 P.M. on the Veppadai to Kumarapalayam Road, near Perumal Kovil pirivu and that the rider of the Splendor Plus motorcycle was the cause for the accident.



15. According to the appellant/Insurance Company in CMA.No.50/2026 the appellant/Insurance Company cannot be held liable to pay the compensation to the claimant, since after the amendment in the Motor Vehicles Act, pay and recovery cannot be ordered. Further, that the Tribunal failed to appreciate the intention of the Legislators in amending Section 149 of old Act and promulgating S.150 of Motor Vehicles Act 2019 and specifically recalling S.149(5) of Motor Vehicles Act, 1988 indicating that the question of paying excess or satisfying the award after breach of specific condition of the contract is not warranted.

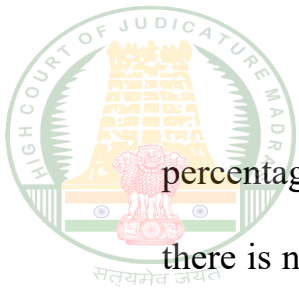
16. It is seen from the records that as per Ext.P1, FIR, the driver of the Splendor Plus motorcycle bearing Reg.No.TN 52 6285 is shown as the accused. After the registration of Ext.P1 FIR, the investigation officer also visited the place of occurrence and prepared Ext.P3 Rough Sketch. The vehicles involved in the accident were also sent to motor vehicle inspector for inspection and Ext.P4, Ex.P6, Ex.P9 motor vehicle reports state that the accident did not occur due to the mechanical defect of the vehicles. After the investigation, the investigation officer lodged Ex.P2 charge sheet under Section 279, 338 IPC against the 1st respondent/rider of the Splendor Plus motorcycle. It is also not in dispute that the first respondent is the driver of the offending vehicle and the second respondent is the owner of the offending vehicle bearing Reg.No.TN 52 6285.



17. As per evidence of PW1, Ex.P1 and Ex.R1, the rider of the Splendor Plus motorcycle bearing Reg.No.TN 52 6285, belonging to the second respondent was the one who caused the accident and there is no valid rebuttal evidence on the side of the respondents, with respect of negligence, on the part of the injured. It is the finding of the Tribunal that the evidence of PW1 remains unchallenged and therefore, the 1st respondent, who is the rider of the Splendor Plus motorcycle bearing Reg.No.TN 52 6285 is liable for the accident. There is no interference required in this regard.

18. With regard to the compensation awarded by the Tribunal, in respect of Loss of Earnings, the Tribunal has fixed the notional monthly income of the injured, in the absence of proof of income, as Rs.12,000/-. Further, it is seen that the claimant was aged about 32 years at the time of the accident, which is not disputed by the respondents. Considering the age and place of residence, this Court is of the view that the notional monthly income fixed by the Tribunal at Rs.12,000/- per month, is very meagre. Therefore, the same is enhanced to Rs.15,000/- per month.

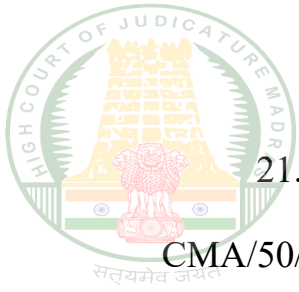
19. With regard to the compensation awarded under the head permanent disability, as per Ext.C1, disability certificate, the disability of the claimant was calculated at 20% by the medical board. The Tribunal has fixed Rs.8,000/- per



percentage of disability for the accident of the year 2022. This Court finds that there is no infirmity in fixing Rs.8,000/- per percentage of disability. Therefore, there is no interference required in this regard.

20. Considering the nature of injuries sustained by the claimant, this Court is of the view that the compensation awarded under the head 'pain and suffering' has to be enhanced. Accordingly, the compensation under the said head is enhanced to Rs.50,000/-. Further, the compensation awarded by the Tribunal under the head 'Extra Nourishment' is also very meagre. Hence, the same is enhanced to Rs.10,000/-. Accordingly, the compensation awarded by the Tribunal is modified as under:

<i>S.No</i>	<i>Head of Compensation</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
1.	Loss of Earnings	Rs.24,000/-	Rs.30,000/-
2.	Transport to Hospital	Rs.2,000/-	Rs.2,000/-
3.	Extra Nourishment	Rs.5,000/-	Rs.10,000/-
4.	Attender Charges	Rs.5,000/-	Rs.5,000/-
5	Damages for Clothes and Articles	Rs.2,000/-	Rs.2,000/-
6	Pain and Sufferings	Rs.30,000/-	Rs.50,000/-
7	Permanent Disability & Loss of Earning Power	Rs.1,60,000/-	Rs.1,60,000/-
	Total	Rs.2,28,000/-	Rs.2,59,000/-



21. Insofar as the ground raised by the appellant/Insurance Company in CMA/50/2026, that the principle of pay and recovery should not have been adopted in this case, it is covered by the Judgment of the Division Bench in ***The Branch Manager ICICI Lombard General Insurance Company Limited, Thanjavur vs. Mariyapushpam and others*** reported in **2026 3 LW 119**. In view of the same, the finding of the Tribunal applying the principle of pay and recovery is sustained.

22. In view of the above, the CMA/50/2026 is dismissed and CMA/2659/2026 is partly allowed and the compensation awarded by the Tribunal at Rs.2,28,000/- is hereby enhanced to Rs.2,59,000/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. The appellant/Insurance Company in CMA/50/2026 is directed to deposit the entire award amount now determined by this Court along with interest, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.363 of 2023 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Judge Court, Erode. On such deposit, the appellant/claimant in CMA/2659/2026 is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount, if any, already withdrawn, by making proper application before the Tribunal. The other directions issued by the Tribunal with regard to the mode of



payment of compensation remains unaltered. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

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17-08-2026

Index: Yes/No

Speaking/Non-speaking order

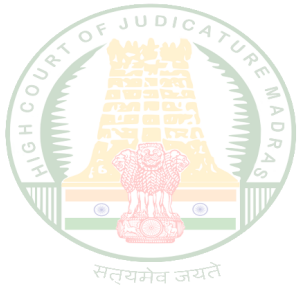
Neutral Citation: Yes/No

TSG

To

1.The Motor Accident Claims Tribunal,
Special Subordinate Judge Court, Erode.

2.The Section Officer,
VR Section, Madras High Court.



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CMA Nos. 50 & 2659 of 2



Order QR

M.JOTHIRAMAN, J.

TSG

**CMA Nos. 50 & 2659 of 2026
& CMP.No.355 of 2026**

17-08-2026