



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-07-2026

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

CMA No. 3887 of 2025

G.Mohan
S/o.Govindan

Appellant(s)

Vs

1. A.V.Traders
No.5/123, Gounder Thottam, Thekani,
Sulur Tk, Coimbatore 641 201.

2.The Branch Manager
Iffco-Tokio General Insurance Co.Ltd,
OKS Building, 5 College Road 2nd
Cross, Tiruppur North, Tiruppur 641602

Respondent(s)

PRAYER

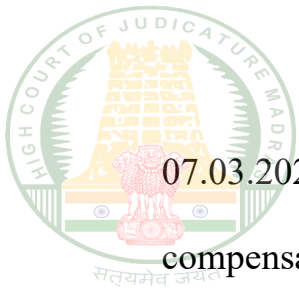
Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award dated 07.3.2025 made in MCOP.No. 438/2022 on the file of Special District Court to deal with MCOP Cases at Tiruppur and to award just reasonable compensation as prayed by allowing the present appeal with 9% Interest.

For Appellant(s): Mr.Ma.P.Thangavel
for Mr.M.Lokesh

For Respondent(s): Mr.J.Michael Visuvasam for R2

JUDGMENT

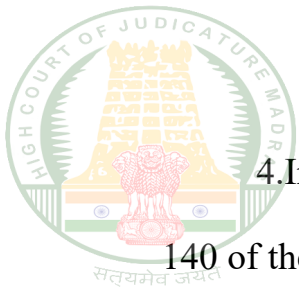
This appeal has been filed against the award passed by the Special District Court to deal with MCOP Cases in MCOP No.438 of 2022, dated



07.03.2025, wherein the claimant is aggrieved by the Tribunal granting compensation under Section 140 of the Motor Vehicles Act, without considering payment of compensation under the traditional heads under Section 166 of the Motor Vehicles Act, 1988.

2.The case of the claimant is that on 24.09.202, the claimant was travelling as a pillion rider in a two wheeler at Vellanur to Singanallur road and at about 11.30 p.m, the offending vehicle which was a lorry was coming in the opposite direction and it was driven in a rash and negligent manner and it dashed on the two wheeler. As a result of which, the claimant and the rider of the vehicle were thrown out of the vehicle and the claimant sustained grievous injuries all over the body which resulted in the amputation of right leg above knee. It is under these circumstances, the claim petition came to be filed before the Tribunal.

3.The Tribunal, on considering the facts and circumstances of the case and on appreciation of evidence came to a conclusion that the driver of the lorry was not the cause for the accident and it is only the rider of the two wheeler in which the claimant was travelling as a pillion rider, on whom the entire negligence was found by the Tribunal.



4. In view of the above, the Tribunal granted compensation under Section 140 of the Motor Vehicles Act, 1988 and fixed Rs.2,50,000/- which was directed to be paid by the 2nd respondent/Insurance company. The compensation was directed to be paid along with interest at the rate of 7.5% p.a. Aggrieved by the same, the claimant has filed the present appeal seeking for enhancement of compensation.

5. Heard the learned counsel for the appellant and the learned counsel for the 2nd respondent/Insurance Company.

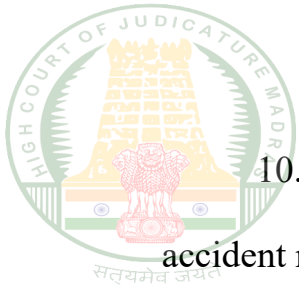
6. The main ground that was urged by the learned counsel for the appellant is that the claimant who was examined as PW.1 has clearly explained the manner in which the accident had taken place and the negligence on the part of the driver of the lorry. It is contended that the evidence of PW.1 has not been discredited and there is no contra evidence available and the Tribunal without appreciating the evidence of PW.1 relied more on the FIR registered as Ex.P.1 and the final report that was marked as Ex.X-1. The learned counsel submitted that the very registration of the FIR based on the complaint given by the mother of the claimant, is vitiated since there is a change of handwriting in the third page of the complaint. The learned counsel submitted that the claimant has suffered amputation on the right leg above knee and hence the case warrants remand back to the Tribunal for letting in further evidence.



7. Per contra, the learned counsel appearing on behalf of the 2nd respondent/Insurance Company submitted that the mother was the complainant in this case and if at all the complaint given by the mother has been altered, the same can be spoken only by the mother. That apart, it is contended that the Tribunal had taken into consideration the evidence of RW.1 and also the accident register that was marked as Ex.X-3 and Ex.X-4 apart from the final report which was marked as Ex.X-1. The learned counsel submitted that the Tribunal had appreciated the evidence and had clearly rendered a finding that the entire negligence was only upon the rider of the two wheeler in which the claimant travelled as a pillion rider.

8. In the case in hand, the claimant had examined himself as PW-1. Obviously, the claimant will tender evidence which supports his case. Therefore, the evidence of PW.1 cannot be given the status of an independent third party eye witness. If really the police had altered the complaint, the mother of the claimant should have been examined and curiously the mother of the claimant has not entered the box.

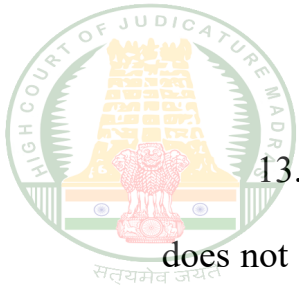
9. The complaint which was registered as an FIR and also the final report that was filed and marked through RW.1, clearly points out the fact that the negligence was only on the rider of the two wheeler.



10. It is also relevant to take note of Ex.X-3 and Ex.X-4. Ex.X-3 is the accident register of the rider of the two wheeler. It shows that it is the mother of the claimant who had taken the rider of the two wheeler to the hospital and in the accident register itself, it has been recorded that there was smell of alcohol. Insofar as the claimant is concerned, Ex.X-4 has been marked and even in that it is clearly recorded that he also smelt alcohol. Hence, these two documents *prima facie* established that both of them had travelled in the vehicle after having alcohol. In view of the same, the version given in the complaint alleging negligence on the part of the rider of the two wheeler and the final report that was filed against the rider of the two wheeler, stands corroborated.

11. On assessment of the evidence, the Tribunal reached a conclusion that the negligence is only on the part of the rider of the two wheeler and only for the purpose of getting the compensation, the lorry driver has been roped in this case since the lorry was covered by an insurance policy. This finding rendered by the Tribunal does not suffer from any perversity warranting the interference of this Court.

12. It is true that the accident had led to the amputation of right leg above knee. However, this factor by itself cannot be the criteria for a Court while deciding the appeal on merits and the Court has to take into consideration all the materials to come to a conclusion.

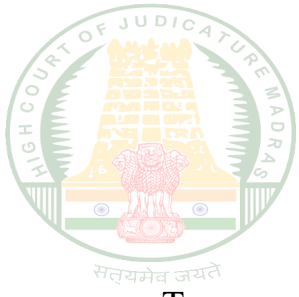


13. In the light of the above discussion, the award passed by the Tribunal does not suffer from any illegality warranting the interference of this Court and accordingly, the same is hereby sustained.

14. In the result, this Civil Miscellaneous Appeal stands dismissed. No costs.

30-07-2026

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
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The Special District Court
to deal with MCOP Cases at Tiruppur.



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N.ANAND VENKATESH J.

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