

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-07-2026

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

CMA No. 406 of 2024

Manimaran
S/o. Elumalai

..Appellant(s)

.Vs.

1. Vincent Paul
S/o. Pachaiyappan

2.The Divisional Manager
Oriental Insurance Company Limited,
Anna Salai, Tiruvannamalai.

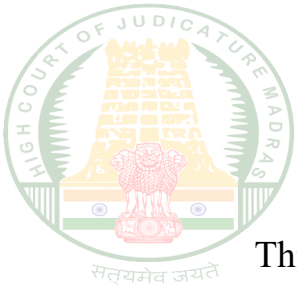
..Respondent(s)

PRAYER

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award against the judgment and decree dated 12.10.2023 and made in MACTOP.No.85 of 2022, on the file of the Motor Accident Claims Tribunal, Tiruvannamalai, Special Sub Court, Tiruvannamalai.

For Appellant(s): Ms.N. Lavanya

For Respondent(s): No appearance

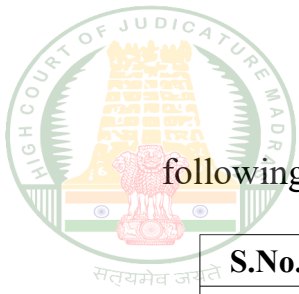


JUDGMENT

This appeal has been filed against the award passed by the Motor Accident Claims Tribunal, Tiruvannamalai, Special Sub Court, Tiruvannamalai in MACTOP.No.85 of 2022, dated 12.10.2023, wherein the claimant is seeking for enhancement of compensation.

2.The case of the claimant is that on 29.08.2021, he was riding a two wheeler at Tiruvannamalai to Tirukoilur Road and at about 11.00 a.m, the offending vehicle which was a car was driven in a rash and negligent manner and it over took the vehicle of the claimant and suddenly stopped as a result of which, the claimant dashed on the back side of the car and the claimant was thrown out of the vehicle and he sustained both bone fracture on the left leg. The claimant underwent treatment as an inpatient for nearly 25 days and one surgery was also performed. 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 there was negligence both on the side of the claimant as well as the driver of the offending vehicle. Accordingly, the Tribunal fixed 60% negligence on the claimant and 40% negligence on the driver of the car. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.3,15,000/- under the



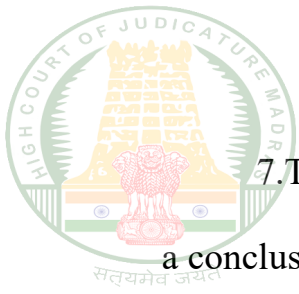
following heads:

S.No.	Compensation awarded under the Head	Amount (in Rs.)
1	Disability (26%)	1,30,000/-
2	Pain and Sufferings	50,000/-
3	Extra Nourishment	10,000/-
4	Attender Charges	10,000/-
5	Transportation Expenses	10,000/-
6	Loss of Amenities	75,000/-
7	Loss of income during the treatment period	30,000/-
	Total :	3,15,000/-
	Deducted 60%	1,89,000/-
	Total :	1,26,000/-

4.The Tribunal deducted 60% out of the total compensation and directed the remaining amount of Rs.1,26,000/- to be paid along with interest at the rate of 7.5% p.a. Aggrieved by the same, the present appeal has been filed before this Court seeking for enhancement of compensation.

5.The respondents have been served with notice and the names of the respondents have also been printed in the cause list. There is no appearance either in person or through counsel.

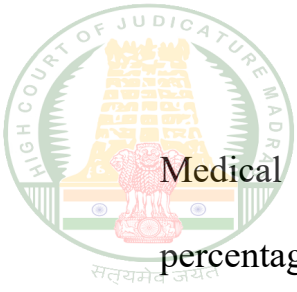
6.This Court heard the learned counsel for the appellant and carefully perused the materials available on record.



7. The Tribunal after considering the evidence of PW-1 and RW-1 came to a conclusion that there is a negligence both on the part of the claimant as well as the driver of the car and fixed 60% negligence on the claimant and 40% negligence on the driver of the car. Even though, the FIR was registered against the claimant and the final report has also been filed against the claimant, the Court is expected to independently assess the evidence while determining the issue of negligence.

8. The Tribunal found that the car suffered the damage at the rear side bumper, rear windshield had broken and the rear dichlight side dented. Similarly, the two wheeler also suffered damages on the front side with handlebar, fork bend, headlight, indicator, front mudguard broken, cross bar bend, right side battery cover broken. The Tribunal relied more on the evidence of RW-1 and thereby fixed 60% contributory negligence against the claimant. In the considered view of this Court, some weightage must be given to the evidence of the claimant also and on over all assessment of the evidence, this Court finds that 80% negligence is attributable to the driver of the car and 20% contributory negligence is attributable against the claimant. Accordingly, the finding rendered by the Tribunal in this regard is modified.

9. Insofar as the quantum of compensable is concerned, the Tribunal had taken into consideration the disability certificate marked as Ex.X-1 and the



Medical Board had assessed 26% permanent disability. While applying the percentage method, the Tribunal had fixed only Rs.5000/- per percentage.

Considering the fact that the accident had taken place in the year 2021, this Court is inclined to fix Rs.10,000/-per percentage. Accordingly, the compensation under the head of 'permanent disability' is fixed at Rs.2,60,000/- [Rs.10,000 x 26].

10.The claimant took treatment as an inpatient for nearly 25 days and one surgery was also performed. Accordingly, the compensation under the heads 'Extra Nourishment' is enhanced to Rs.25,000/- and 'Attender Charges' is enhanced to Rs.15,000/-.

11.Considering the fact that the claimant was a car driver and also taking note of the nature of injury sustained by the claimant, this Court is inclined to fix compensation under the head 'loss of income' at Rs.60,000/- (15,000/- x 4).

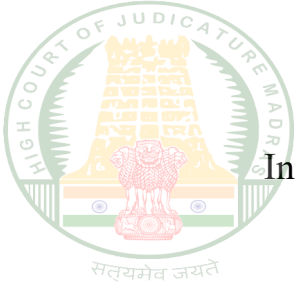
12.The compensation fixed under the other heads are found to be just and fair and hence, the same is sustained.

13.In the light of the above discussion, the compensation fixed by the Tribunal is modified in the following manner:



Sl. No.	Compensation awarded under the head	Amount awarded by the Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1	Disability	1,30,000/-	2,60,000/-
2	Pain and Sufferings	50,000/-	50,000/-
3	Extra Nourishment	10,000/-	25,000/-
4	Attender Charges	10,000/-	15,000/-
5	Transportation Expenses	10,000/-	10,000/-
6	Loss of Amenities	75,000/-	75,000/-
7	Loss of income during the treatment period	30,000/-	60,000/-
	Total :	3,15,000/-	4,95,000/-
	Less : (60%)1,89,000		(20%) 99,000/-
	Total Compensation:	1,26,000/-	3,96,000/-

14.The compensation awarded by the Tribunal at Rs.1,26,000/- is enhanced to Rs.3,96,000/- . The 2nd respondent/Insurance Company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at the rate of 7.5% p.a, from the date of claim petition till the date of deposit within a period of four (4) weeks from the date of receipt of a copy of this judgment. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

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15-07-2026

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
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To

The Motor Accident Claims Tribunal,
Tiruvannamalai, Special Sub Court,
Tiruvannamalai.



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N.ANAND VENKATESH J.

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