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CMA.No.517 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-07-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

Civil Miscellaneous Appeal No. 517 of 2025

Mr.K.G. Vijayabaskar
S/o. K.R. Gopal , Residing at No.67/68,
Reddy Street, Katchur Village,
Seethancheri Post, Uthukottai Taluk,
Thiruvallur District.

...Appellant

Vs

1. R Jaiganesh, S/o. Ramamoorthy,
Residing at No.59, Thiruvai Post,
Uthukottai Taluk, Thiruvallur District.
602026.
2. The Manager
The Reliance Insurance Company Limited,
Motor T.P. Claims, No.6, Sasthiri Bhavan,
Nungambakkam, Chennai - 034.

...Respondents

APPEAL under Section 173 of the Motor Vehicles Act, 1988
against the decree and judgment dated 05.8.2024 made in MCOP.
No.214 of 2021 on the file of Motor Accident Claims Tribunal No.2,
Special Sub Court, Thiruvallur.



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For Appellant:
For Respondents:

Mr,U,Chithambaram
R1 was set exparte before the
Tribunal below
Mr.P.Suresh Srinivasan for R2

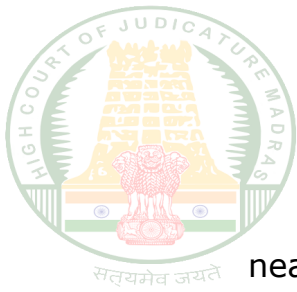
JUDGMENT

This appeal has been filed challenging the award dated 05.8.2024 made in MCOP.No.214 of 2021 on the file of the Motor Accidents Claims Tribunal-II (Special Sub-Court), Tiruvallur (for short, the Tribunal below) wherein the appellant – claimant is seeking for enhancement of compensation and also for a direction to the second respondent – Insurance Company to pay the compensation amount to the appellant – claimant and to recover the same from the owner of the vehicle namely the first respondent.

2. Heard the learned counsel for the appellant and the learned counsel appearing for the second respondent.

3. The case of the appellant – claimant is as follows:

(i) On 09.9.2021, the appellant – claimant was travelling in his two wheeler and at about 7.45 AM, when the two wheeler was



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nearing Kachavur pond, the offending vehicle, which was a Tata Ace vehicle that was belonging to the first respondent and insured with the second respondent, was driven in a rash and negligent manner, as a result of which, the offending vehicle dashed against the two wheeler and the appellant – claimant was thrown out of the two wheeler, pursuant to which, he sustained the following injuries:

"Grievous fracture of left zygomaticomaxillary complex on his face and head and multiple grievous blood injuries all over his body."

(ii) A first information report (FIR) came to be registered against the driver of the offending vehicle in Crime No.292 of 2021 on the file of the Inspector of Police, Pennalurpet Police Station. It was under those circumstances, the claim petition came to be filed before the Tribunal below.

(iii) The Tribunal below, on considering the facts and circumstances of the case and on appreciation of the oral and documentary evidence, came to the conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the offending vehicle.



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(iv) Having rendered the above finding, the Tribunal below came to the further conclusion that that the owner of the offending vehicle did not possess a valid fitness certificate at the time of accident and that it had expired long back. In view of the same, the Tribunal below exonerated the second respondent – Insurance Company from the liability and fixed the entire liability on the owner of the offending vehicle namely the first respondent. Thereafter, the Tribunal below proceeded to fix the total compensation of Rs.4,13,000/- under the following heads:

<i>S.No.</i>	<i>Head</i>	<i>Amount</i>
1	<i>Disability (26%)</i>	<i>Rs. 1,30,000/-</i>
2	<i>Pain and suffering</i>	<i>Rs. 75,000/-</i>
3	<i>Loss of income during the period of injury</i>	<i>Rs. 14,000/-</i>
4	<i>Extra nourishment</i>	<i>Rs. 5,000/-</i>
5	<i>Medical bill</i>	<i>Rs. 1,72,000/-</i>
6	<i>Loss of amenities</i>	<i>Rs. 5,000/-</i>
7	<i>Transportation expenses</i>	<i>Rs. 10,000/-</i>
8	<i>Attender charges</i>	<i>Rs. 2,000/-</i>
	<i>Total</i>	<i>Rs. 4,13,000/-</i>

(v) The total compensation awarded by the Tribunal below was directed to be paid with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit. Aggrieved by that, the above appeal has been filed before this Court.



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4. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned award.

5. In so far the issue of exonerating the second respondent – Insurance Company from the liability is concerned, the finding rendered by the Tribunal below in this regard is unsustainable and in view of the judgment of the Hon'ble Apex Court in the case of ***National Insurance Co.Ltd. Vs. Swaran Singh [reported in 2004 (3) SCC 297]***, the Tribunal below ought to have applied the principle of pay and recovery. The finding of the Tribunal below holding it otherwise is hereby set aside.

6. In view of the above, this Court holds that the total compensation amount shall be payable to the appellant – claimant by the second respondent – Insurance Company and that it can be recovered from the owner of the offending vehicle namely the first respondent.



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7. Coming to the issue of quantum of compensation fixed by the Tribunal below, it is seen that the Medical Board assessed partial disability at 26%. The Tribunal below applied the percentage method and fixed Rs.5,000/- per percentage. In the case in hand, the accident occurred in the year 2021 and therefore, this Court is inclined to fix a sum of Rs.10,000/- per percentage. Accordingly, the compensation under the head 'disability' is fixed as Rs.2,60,000/- (Rs.10,000/- per percentage X 26).

8. In this case, the appellant – claimant underwent treatment as an inpatient for 5 days. Apart from that, considering the nature of injuries sustained by him, this Court is inclined to enhance the compensation under the heads 'extra nourishment' to Rs.10,000/-; 'loss of amenities' to Rs.10,000/- and 'attender charges' to Rs.3,500/-. Further, the Tribunal below fixed the compensation under the head 'loss of income' at Rs.7,000/- per month for two months. This Court is inclined to fix the monthly income of the appellant – claimant at Rs.15,000/- and for a period of two months, the compensation under the head 'loss of income' is calculated at



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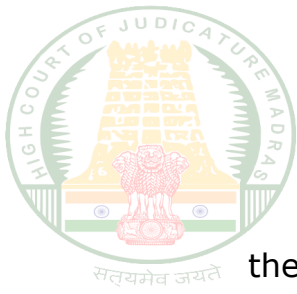
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Rs.30,000/- . The compensation awarded under the other heads is found to be just and proper.

9. For the foregoing reasons, the above civil miscellaneous appeal is partly allowed and the award dated 05.8.2024 in MCOP. No.214 of 2021 on the file of the Tribunal below is modified as follows:

<i>S.No.</i>	<i>Head</i>	<i>Amount awarded by the Tribunal below</i>	<i>Amount awarded by this Court in this appeal</i>
1	<i>Disability (26%)</i>	<i>Rs. 1,30,000/-</i>	<i>Rs.2,60,000/-</i>
2	<i>Pain and suffering</i>	<i>Rs. 75,000/-</i>	<i>Rs. 75,000/-</i>
3	<i>Loss of income during the period of injury</i>	<i>Rs. 14,000/-</i>	<i>Rs. 30,000/-</i>
4	<i>Extra nourishment</i>	<i>Rs. 5,000/-</i>	<i>Rs. 10,000/-</i>
5	<i>Medical bill</i>	<i>Rs. 1,72,000/-</i>	<i>Rs.1,72,000/-</i>
6	<i>Loss of amenities</i>	<i>Rs. 5,000/-</i>	<i>Rs. 10,000/-</i>
7	<i>Transportation expenses</i>	<i>Rs. 10,000/-</i>	<i>Rs. 10,000/-</i>
8	<i>Attender charges</i>	<i>Rs. 2,000/-</i>	<i>Rs. 3,500/-</i>
	<i>Total</i>	<i>Rs. 4,13,000/-</i>	<i>Rs.5,70,500/-</i>

The above total compensation fixed by this Court shall be deposited by the second respondent – Insurance Company along with interest at 7.5% per annum from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of a copy of this judgment. It is made clear that it can be recovered by



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the second respondent – Insurance Company from the owner of the offending vehicle namely the first respondent. No costs.

09-07-2026

To

- 1.The Motor Accident Claims Tribunal No.II,
Special Sub Court Thiruvallur.
- 2.The Manager, the Reliance Insurance
Company Limited, Motor T.P. Claims,
No.6, Sasthiri Bhavan,
Nungambakkam, Chennai - 34.

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