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CMA.No.1961 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-07-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

Civil Miscellaneous Appeal No.1961 of 2022

A.Shanmuga Sundaram
S/o. Athappan, Residing at
D.No.7/801, Telungupalayam,
Pillaipalayam Post,
Annur, Coimbatore District.

...Appellant

Vs

1. Mr.Vijayakumar
S/o.Murugan, Residing at
58/NA, Thattanety, Kallaty Post,
Udhagamandalam- 643 005.
2. The Divisional Manager
Universal Sombo General Insurance Co.,
Ltd., 102, New D.No.44, Old D.No.39, Halls
Road, Egmore, Chennai - 600 008.

...Respondents

APPEAL under Section 173 of the Motor Vehicles Act, 1988
against the order dated 30.6.2022 made in MCOP.No.1726 of 2019
on the file of the Motor Vehicle Accident Claims Tribunal/Chief
Judicial Magistrate Court, Coimbatore.



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CMA.No.1961 of 2022

For Appellant:

Mr.T.S.Arthanareeswaran

For Respondents:

R1 – set ex parte before the
Tribunal below

Mrs.R.Sreevidhya for R2

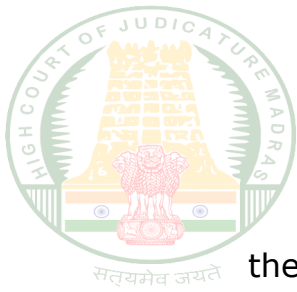
JUDGMENT

This appeal has been filed against the award dated 30.6.2022 made in MCOP.No.1726 of 2019 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate Court), Coimbatore (for short, the Tribunal below) wherein the appellant – claimant is seeking for enhancement of compensation.

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

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

(i) On 14.10.2018, the appellant was riding a two wheeler with a pillion rider at Kovai to Annur Main Road and at about 8 PM, the offending vehicle - a Maruti Omni Car, which was driven in rash and negligent manner, dashed against the two wheeler that the appellant – claimant was riding, as a result of which, he sustained



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the following injuries:

"1. Head injury – frontal scalp laceration.

CT showed subarachnoid haemorrhage (R) sylvian fissure and (L) parietal sulcal spaces. Punctate haemorrhagic focus (R) frontal lobe.

Comminuted, displaced fracture (R) frontal bone.

2. Faciomaxillary injury – lacerations lower lip & tongue.

CT – fracture body of mandible (R)

Fracture (R) Maxillary sinus walls (R) zygomatic arch and nasal bone.

3. CT showed fracture all walls of (R) orbit with intra ocular haematoma.

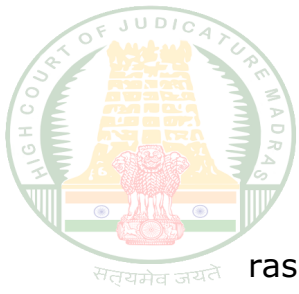
4. Swelling, deformity (L) arm.

X rays – fracture shaft of Humerus (L).

5. Friction burns over (L) thigh and leg."

(ii) It was under those circumstances, the claim petition came to be filed before the Tribunal below. The first respondent was the owner of the offending vehicle and the second respondent is its insurer.

(iii) The Tribunal below, on considering the facts and circumstances of the case and on appreciation of the evidence, came to the conclusion that the accident had taken place due to the



CMA.No.1961 of 2022

rash and negligent driving by the driver of the offending vehicle.

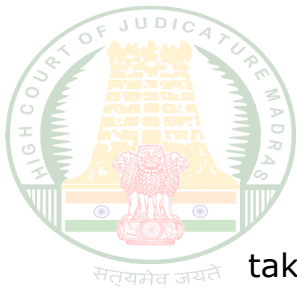
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(iv) Having rendered the above finding, the Tribunal below fixed the total compensation at Rs.16,88,384/- in the following manner:

<i>S.No.</i>	<i>Head</i>	<i>Amount</i>
1	<i>Loss of earning capacity</i>	<i>Rs. 7,34,400/-</i>
2	<i>Medical bills</i>	<i>Rs. 9,53,984/-</i>
	<i>Total</i>	<i>Rs.16,88,384/-</i>

(v) The total compensation fixed by the Tribunal below was directed to be deposited by the second respondent together with interest at the rate of 7.5% per annum from the date of claim petition till the date of realization. Aggrieved by that, the above appeal has been filed by the appellant – claimant seeking for enhancement of compensation.

4. The main ground that was urged on the side of the appellant – claimant is that the Tribunal below awarded compensation only under the heads 'loss of earning capacity' and 'medical bills', that the compensation has not been granted under any of the other traditional heads, that the Tribunal below fixed the notional monthly income at Rs.8,000/- for an accident that had



CMA.No.1961 of 2022

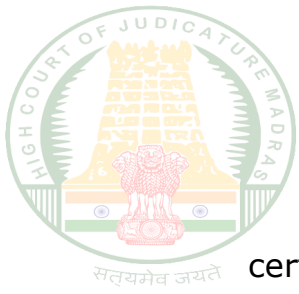
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taken place in the year 2018 and that the same is on the lower side and requires enhancement.

5. Per contra, the learned counsel appearing for the second respondent submitted that the Tribunal below went wrong in assessing the entire 51% disability pointed out by the Medical Board towards loss of earning capacity, that only 1/3rd would have to be taken while applying multiplier method, that the compensation fixed by the Tribunal below does not require the interference of this Court and that it can be sustained as it is.

6. 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.

7. The appellant – claimant is stated to be an agriculturist. The nature of injuries sustained by him has already been extracted supra. Most of the injuries have been suffered in the face and unfortunately, the appellant – claimant lost his vision in the right eye. The Tribunal below took into consideration the disability



CMA.No.1961 of 2022

WEB COPY

certificate marked as Ex.C.1 and also took note of the fact that apart from the injuries suffered in the face, there was also an injury to the shoulder, which resulted in limiting the movement of the shoulder and the left fore arm.

8. The learned counsel appearing for the appellant – claimant has submitted that the appellant – claimant lost his vision in the right eye and that being an agriculturist, the appellant – claimant lost his earning capacity to the entire extent of 51% of disability fixed by the Medical Board.

9. The injuries suffered by the appellant – claimant were certainly grievous in nature. The major injuries were suffered in the face and it had resulted in loss of vision in the right eye. The restriction in the movement of the shoulder is yet another consequence of the injuries suffered by the appellant – claimant. As the appellant – claimant is stated to be an agriculturist, the Tribunal below ought to have properly assessed the actual functional disability suffered by him, which resulted in the loss of earning capacity.



CMA.No.1961 of 2022

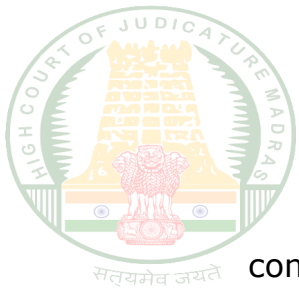
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10. Even though it is contended on the side of the second respondent that 1/3rd has to be fixed towards loss of earning capacity out of 51%, this Court is inclined to fix it at the rate of 2/3rd considering the fact that the appellant – claimant lost his vision in the right eye. Accordingly, this Court fixes the functional disability and loss of earning capacity at 34%.

11. In so far as fixation of the notional monthly income is concerned, the sum of Rs.8,000/- that has been fixed by the Tribunal is certainly on the lower side. Hence, this Court is inclined to fix the notional monthly income at Rs.15,000/-. To this, if the future prospects at the rate of 25% is added, the amount comes to Rs.18,750/- (Rs.15,000/- + Rs.3,750/-). Thus, the compensation under the head 'loss of earning capacity' is calculated as follows:

"Rs.18,750/- X 12 X 15 X 34% = Rs.11,47,500/-".

12. In this case, the Tribunal below had not granted any compensation under the traditional heads. It is seen that the appellant – claimant had taken treatment as an inpatient for nearly 50 days in two spells. Hence, this Court is inclined to fix a



CMA.No.1961 of 2022

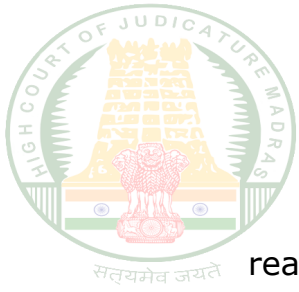
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compensation of Rs.50,000/- towards extra nourishment, Rs.50,000/- towards attender charges; Rs.25,000/- towards transportation and Rs.1,00,000/- towards pain and sufferings.

13. In the light of the above discussions, the total compensation fixed by the Tribunal below is modified as follows:

S.No.	Head	Amount awarded by the Tribunal below	Amount awarded by this Court
1	Disability	Rs. 7,34,400/-	Rs.11,47,500/-
2	Medical bills	Rs. 9,53,984/-	Rs. 9,53,984/-
3	Extra nourishment	----	Rs. 50,000/-
4	Attender charges	----	Rs. 50,000/-
5	Transportation	----	Rs. 25,000/-
6	Pain and sufferings	----	Rs. 1,00,000/-
	Total	Rs.16,88,384/-	Rs.23,26,484/-

14. Accordingly, the above civil miscellaneous appeal is partly allowed and the award dated 30.6.2022 made in MCOP.No.1726 of 2019 on the file of the Tribunal below is modified and the second respondent – Insurance Company shall deposit the said sum of Rs.23,26,484/- (Rupees twenty three lakhs twenty six thousand four hundred and eighty four only) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of



CMA.No.1961 of 2022

WEB COPY

realization. It is made clear that the enhanced compensation amount together with interest as indicated above shall be deposited by the second respondent – Insurance Company within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant – claimant is entitled to withdraw the entire compensation amount together with accrued interest. No costs.

07-07-2026

To

- 1.The Motor Vehicle Accident Claims
Tribunal/Chief Judicial Magistrate Court,
Coimbatore.
- 2.The Divisional Manager
Universal Sombo General
Insurance co., Ltd., 102,
New D.No.44, Old D.No.39,
Halls Road, Egmore,
Chennai - 600 008.

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CMA.No.1961 of 2022

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CMA.No.1961 of 2022

07-07-2026

Page10 of 10