



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-07-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CMA No. 2607 of 2024

M.Vishnubarathi
S/o. Mahalingam,
Residing at 102/79-A, Kanakkan Thottam,
Karugam Palayam, Ichippatti Post,
Somanur Taluk, Tiruppur District.

..Appellant(s)

Vs

1. A.Gopal
S/o. Aruchamy,
No.2/62, East Street, Sengadurai,
Kadampadi, Sulur Taluk, Coimbatore District.

2. The Branch Manager
Natiuonal Insurance Company Ltd.,
Branch Office 18, Court Street, Tiruppur.

..Respondent(s)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 seeking to fix liability of the respondent jointly and severally and by enhancing the compensation awarded by the Tribunal in M.C.O.P.No.334 of 2017, dated 21.06.2024 on the file of the Motor Accident Claims Tribunal, Special District Judge, Special District Court to deal with MCOP Cases, Tiruppur, by allowing the present appeal with 9 percentage interest and cost.

For Appellant(s):	Mr.M.Lokesh
For Respondent(s):	Mr.S.Arun Kumar For R2 R1 – Exparte



JUDGMENT

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This appeal has been filed against the award passed by the Special District Judge, Motor Accident Claims Tribunal, Tiruppur made in M.C.O.P.No.334 of 2017, dated 21.06.2024, wherein the claimant is questioning the exoneration of the Insurance company from the liability and imposing the entire liability on the owner of the vehicle namely the first respondent.

2. The case of the claimant is that on 24.04.2016, while he was riding a two-wheeler at Karumathampatti – Annur road and at about 5.45 p.m., when the vehicle was near Velampalayam Division, the offending vehicle of the first respondent was driven in a rash and negligent manner and it dashed against the two-wheeler, as a result which, the claimant sustained the following injuries:

“1.Closed Fracture shaft of right femur

2.Type I open lisfranc’s injury with soft tissue injury right foot

3.Right hand injury - 2nd , 3rd, 4th and 5th metacarpal base fractures.”

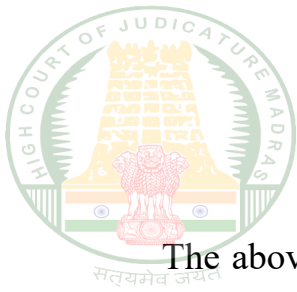
The claimant underwent treatment as an in-patient for 25 days in three spells. It is under these circumstances, the claim petition came to be filed before the Tribunal.



3. The Tribunal, on considering the facts and circumstances of the case, and on appreciation of 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 rider of the offending vehicle.

4. The Tribunal having rendered the above finding, found that the rider of the offending vehicle did not possess a valid driving licence. Hence, the Insurance Company was exonerated from the liability to pay the compensation. The Tribunal thereafter proceeded to fix the total compensation at Rs.5,34,101/- under the following heads:

<i>Sl.No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Annual Income of petitioner	Rs.1,68,000/-
2.	Compensation for Loss of income by applying multiplier '18' (168000 x 18)	Rs.30,24,000/-
3.	Loss of future income due to 3% functional disability	Rs.90,720/-
4.	Pain and Sufferings	Rs.1,00,000/-
5.	Loss of amenities	Rs.1,00,000/-
6.	Medical Expenses	Rs.1,88,381/-
7.	Transportation Expenses	Rs.10,000/-
8.	Nourishment Expenses	Rs.25,000/-
9.	Attender Charges	Rs.15,000/-
10.	Damages to the clothes	Rs.5,000/-
	Total	Rs.5,34,101/-



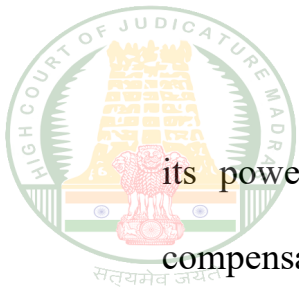
The above compensation was directed to be paid along with interest at the rate of 7.5% per annum. Aggrieved by the same, the claimant has filed the present appeal before this Court.

5. This Court heard the learned counsel for appellant and the learned counsel for second respondent - Insurance Company.

6. This Court carefully considered the submissions made on either side and the materials available on record. This Court also carefully went through the award passed by the Tribunal.

7. In the considered view of this Court, in the light of the Judgment of the Apex Court in *National Insurance Co. Ltd V. Swaran Singh and others reported in (2004) 3 SCC 297*, the Tribunal ought to have applied “pay and recovery” and directed the Insurance Company to pay the compensation and recover the same from the owner of the vehicle. Hence, the findings to the contrary held by the Tribunal is liable to be interfered by this Court.

8. Insofar as the compensation that has been fixed by the Tribunal even though the claimant is on appeal, this Court has to see if just and fair compensation has been fixed by the Tribunal. This Court can always exercised

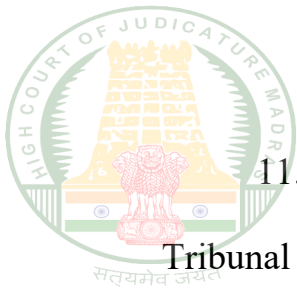


its power under Order 41 Rule 33 of CPC., to modify the quantum of compensation even in the absence of challenge from the appellant.

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9. In the case in hand, the Medical Board has assessed the permanent disability at 3%. The injury that was sustained by the claimant has already been extracted supra. Admittedly, the claimant was a student studying Mechanical Engineering. In view of the same, there is absolutely no material to invoke the multiplier method as was done by the Tribunal. At the best, the compensation can be granted under the head of disability by adopting the percentage method. Considering the fact that the accident was of the year 2016, this Court is inclined to fix Rs.5,000/- per percentage and the compensation under the head of disability is fixed as Rs.15,000/- . (Rs.5,000/- x 3%).

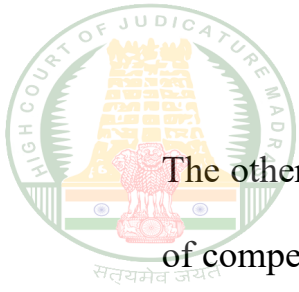
10. This Court finds that the Tribunal has fixed the compensation of Rs.1,00,000/- under the head of pain and sufferings which also requires the interference of this Court and the same is reduced to Rs.75,000/-. Similarly, the Tribunal has fixed a sum of Rs.1,00,000/- under the head of loss of amenities which is also on the higher side and the same is reduced to Rs.50,000/-. The compensation fixed under other heads are reasonable and does not require the interference of this Court.



11. In the light of the above discussion, the compensation granted by the Tribunal is modified as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	Annual Income	Rs.1,68,000/-	Rs.1,68,000/-
2.	Loss of income	Rs.30,24,000/-	Rs.30,24,000/-
3.	Loss of Future Income due to 3% functional disability	Rs.90,720/-	Rs.15,000/-
4.	Pain and Sufferings	Rs.1,00,000/-	Rs.75,000/-
5.	Loss of amenities	Rs.1,00,000/-	Rs.50,000/-
6.	Medical Expenses	Rs.1,88,381/-	Rs.1,88,381/-
7.	Transportation Expenses	Rs.10,000/-	Rs.10,000/-
8.	Nourishment Expenses	Rs.25,000/-	Rs.25,000/-
9.	Attender Charges	Rs.15,000/-	Rs.15,000/-
10.	Damages to clothes	Rs.5,000/-	Rs.5,000/-
	Total (3 to 10)	Rs.5,34,101/-	Rs.3,83,381/-

12. The compensation awarded by the Tribunal at Rs.5,34,101/- is reduced to Rs.3,83,381/-. The second respondent - Insurance Company is directed to deposit the compensation, 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 six (6) weeks from the date of receipt of this judgment to the credit of M.C.O.P.No.334 of 2017, on the file of the Motor Accident Claims Tribunal, Special District Court to deal with MCOP Cases, Tiruppur and thereafter, recover the same from the owner of the vehicle, namely the first respondent. On such deposit, the claimant is entitled to withdraw the same on due application.



The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

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

08-07-2026

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

SSI

To:

1. The Special District Judge,
Motor Accident Claims Tribunal,
Tiruppur.

2. The Section Officer,
V.R.Section,
High Court of Madras.



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CMA No. 2607 of 2



N.ANAND VENKATESH, J.

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CMA No. 2607 of 2024

08-07-2026