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CMA.No.434 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02-07-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

Civil Miscellaneous Appeal No.434 of 2024

S.Dillibabu, S/o. Subramani,
residing at No.35,
Bajanai Koil Street,
Sirunamalli, Arakkonam,
Vellore District.

...Appellant

Vs

1. Mr.Vijaya Kumar
No.260/1, Paziya Colony,
Arikalampadi, Arakkonam,
Vellore District.
2. IFFCO TOKIO General Insurance
Co.Ltd., No.128, Habibullah Road,
T.Nagar, Chennai-17.

...Respondents

APPEAL under Section 173 of the Motor Vehicles Act, 1988
praying to allow this appeal and enhance the amount awarded in
M.C.O.P.No.3900 of 2017 dated 30.1.2023 on the file of Motor
Accidents Claims Tribunal (III Court of Small Causes) Chennai.



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For Appellant: Mr.K.Varadhakamaraj
R1 : Served & No appearance
For R2: Mr.J.Michael Visuvasam

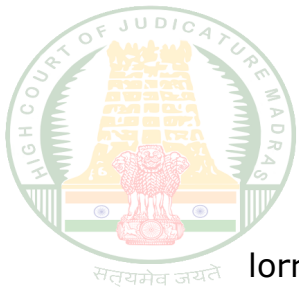
JUDGMENT

This appeal has been filed against the award passed by the Motor Accidents Claims Tribunal (III Court of Small Causes), Chennai (for short, the Tribunal below) dated 30.1.2023 in M.C.O.P. No.3900 of 2017 wherein the appellant, who is the claimant, is seeking for enhancement of compensation.

2. Heard the learned counsel for the appellant and the learned counsel appearing for the second respondent. Though the first respondent was served, none appears on behalf of him.

3. The case of the appellant is as follows:

(i) On 23.5.2017, the appellant – claimant was riding a two wheeler – TVS XL bearing Regn.No.TN-23-AR-6944 from Arakkonam to Kanchipuram and at about 16 hours, when the two wheeler was proceeding near Parameshwaramangalam Road Junction, a tipper



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lorry bearing Regn.No.TN-73-X-3232, which was driven in a rash and negligent manner, dashed on the two wheeler, which was driven by the claimant, as a result of which, the claimant was thrown out of the vehicle and the right side front wheel of the said lorry ran over the right leg and right hand of the claimant, on account of which, the claimant sustained serious injuries. It is under these circumstances, the claim petition came to be filed before the Tribunal below.

(ii) The Tribunal below, 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 driver of the offending vehicle.

(iii) The Tribunal below, having rendered the above finding, fixed the total compensation at Rs.24,69,700/- under the following heads:

<i>S.No.</i>	<i>Head</i>	<i>Amount</i>
1	<i>Disability</i>	<i>Rs.22,93,200/-</i>
2	<i>Pain & Sufferings</i>	<i>Rs. 75,000/-</i>
3	<i>Transportation</i>	<i>Rs. 10,000/-</i>
4	<i>Extra Nourishment</i>	<i>Rs. 20,000/-</i>
5	<i>Attender Charges</i>	<i>Rs. 31,500/-</i>
6	<i>Loss of Amenities</i>	<i>Rs. 40,000/-</i>
	<i>Total Compensation is fixed at</i>	<i>Rs.24,69,700/-</i>



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Rounded Off to Rs.24,69,700/-

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The above compensation was directed to be paid by the second respondent with interest at the rate of 7.5% per annum from the date of filing of the claim petition i.e., 14.7.2017 till realization at the first instance with a liberty to recover the same from the first respondent without filing any separate application.

(iv) Not satisfied with the award passed by the Tribunal below, the claimant filed the above appeal seeking for enhancement of compensation.

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 the case in hand, the Tribunal below had taken into consideration the following injuries sustained by the claimant :

"Crush injury right leg – AK amputation done, fracture distal humerus bicolunar plating, right transfemoral amputee – right distal humerus fracture bicolunar plating."



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6. The Tribunal below had also taken into consideration the disability certificate that was marked as Ex.C.1, which would show that the claimant suffered permanent disability at 82.8%. The Tribunal below had further taken into consideration the fact that the claimant suffered the following injuries :

"Locomotor above knee amputation right thigh, right index finger partial amputated lower limb of right leg."

7. The Tribunal below had taken into consideration the claim made by the claimant as if he was the owner-cum-driver and therefore, it applied the multiplier method and fixed the functional disability at 70%. The Tribunal below fixed the notional monthly income at Rs.13,000/- and calculated the compensation under the head 'disability'. Except for the *ipse dixit* of the claimant that he was a driver, there is no material to show that the avocation of the claimant was that of a driver. Hence, the Tribunal below had carefully fixed the functional disability at 70% and applied the multiplier method for determining the compensation under the head 'disability'.



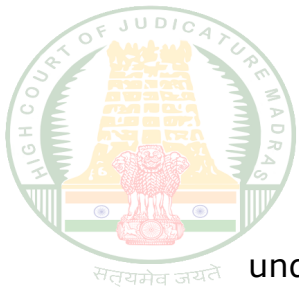
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8. Even though this Court is not inclined to interfere with the percentage of functional disability determined by the Tribunal below, this Court finds that the notional monthly income fixed by it is on the lower side. Accordingly, this Court is inclined to fix the notional monthly income of the claimant at Rs.15,000/-. To this, if 40% future prospects is added, it would come to a sum of Rs.21,000/-. Accordingly, the compensation fixed under the head 'disability' is calculated as follows:

$$\begin{aligned} & \text{"Rs.21,000/- X 12 x 15 X 70% =} \\ & \text{Rs.26,46,000/-."} \end{aligned}$$

9. While going into the compensation that has been fixed under the other heads, this Court finds that the compensation fixed under the head 'pain and sufferings' is on the lower side and this Court is inclined to enhance the compensation to Rs.2 lakhs under this head. Similarly, this Court is inclined to increase amounts under the heads "transport charges" and "extra nourishment" to Rs.25,000/- and Rs.50,000/- respectively. The compensation that has been fixed under the head 'attender charges' is held to be reasonable and is retained as it is, except the compensation granted



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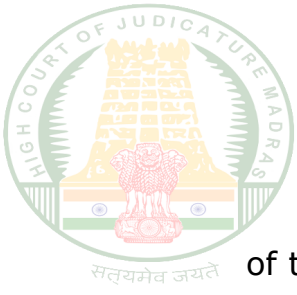
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under the head "loss of amenities", which is set aside.

10. In the light of the above discussions, the compensation granted by the Tribunal below is modified as follows:

<i>S.No.</i>	<i>Head</i>	<i>Amount</i>
1	<i>Disability</i>	<i>Rs.26,46,000/-</i>
2	<i>Pain & Sufferings</i>	<i>Rs. 2,00,000/-</i>
3	<i>Transportation</i>	<i>Rs. 25,000/-</i>
4	<i>Extra Nourishment</i>	<i>Rs. 50,000/-</i>
5	<i>Attender Charges</i>	<i>Rs. 31,500/-</i>
<i>Total Compensation is fixed at</i>		<i>Rs.29,52,500/-</i>

11. Accordingly, the above civil miscellaneous appeal is partly allowed by modifying the award passed by the Tribunal below. The said sum of Rs.29,52,500/- (Rupees twenty nine lakhs fifty two thousand and five hundred only) shall be paid to the appellant – claimant together with interest at the rate of 7.5% per annum as directed by the Tribunal below. It is made clear that the appellant – claimant will not be entitled to claim any interest for the delayed period of 118 days as was ordered by this Court on 02.2.2024. There shall be a direction to the second respondent to deposit the entire compensation amount to the extent indicated in this judgment less the amount, if any, already deposited within a period



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of two weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant – claimant is entitled to withdraw the entire amount together with accrued interest. It goes without saying that the finding with regard to pay and recovery ordered by the Tribunal below is sustained. No costs.

02-07-2026

To
The Motor Accidents Claims Tribunal
(III Court of Small Causes), Chennai

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N.ANAND VENKATESH,J

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