



CMA.No.1749 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 07-07-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

Civil Miscellaneous Appeal No.1749 of 2022

J. Stanislas
S/o. John Bosco,
Udayar Street,
S.Kumarapuram,
Cuddalore Taluk.

...Appellant

Vs

1. R. Dhandapani
S/o. Rasarathinam,
No.130-A, Agilanda Gengapuram
Gengaikondan T.P.,
Vridhachalam Taluk,
Cuddalore District.
2. The Tata AIG General Insurance
Co.Ltd., Raheja Towers, 9th Floor,
Thousand Lights, Chennai District.

...Respondents

APPEAL under Section 173 of the Motor Vehicles Act, 1988
against the fair and decretal order dated 18.3.2016 made in MCOP
No.940 of 2013 on the file of the Motor Accident Claims Tribunal
(Principal Subordinate Court) Cuddalore in so far as awarding the



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lesser compensation is concerned.

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For Appellant: Mr.T.P.Prabhakaran

For Respondent(s): Mr.J.Michael Visuvasam for R2

R1- set ex parte before the
Tribunal below

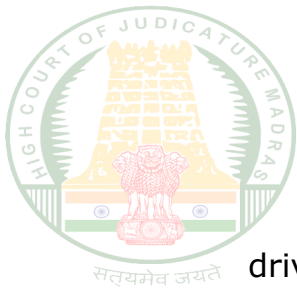
JUDGMENT

This appeal has been filed challenging the award dated 18.3.2016 made in MCOP.No.940 of 2013 on the file of the Motor Accidents Claims Tribunal (Principal Subordinate Court), Cuddalore (Tribunal below) seeking for enhancement of compensation.

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

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

(i) On 04.3.2013, the appellant – claimant was riding a two wheeler along with a pillion rider at Cuddalore – Vridhachalam Road and at about 8.30 PM, the offending vehicle - a mini van, which was



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driven in a rash and negligent manner and which came from the opposite direction, hit the two wheeler that was driven by the appellant – claimant, as a result of which, he sustained the following serious injuries :

"(a) fracture in the middle part and upper part of fore arm;

(b) fracture in the right shoulder in the acromine region; and

(c) several fractures in the right femur bone; right tibia fibula bones; second metatarsal bone and right 3, 4 and 5 metacarpal bones."

(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 was its Insurer.

(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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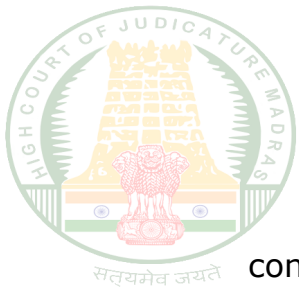
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(iv) Having rendered the above finding, the Tribunal below fixed the total compensation of Rs.16,49,200/- under the following heads:

<i>S.No.</i>	<i>Head</i>	<i>Amount</i>
1	<i>Permanent disability</i>	<i>Rs.14,40,000/-</i>
2	<i>Pain and sufferings</i>	<i>Rs. 42,500/-</i>
3	<i>Medical expenses</i>	<i>Rs. 50,000/-</i>
4	<i>Extra nourishment</i>	<i>Rs. 15,000/-</i>
5	<i>Future medical expenses</i>	<i>Rs. 20,000/-</i>
6	<i>Loss of amenities</i>	<i>Rs. 50,000/-</i>
7	<i>Transport & other incidental expenses</i>	<i>Rs. 31,700/-</i>
	<i>Total:</i>	<i>Rs.16,49,200/-</i>

(v) The said sum of Rs.16,49,200/- was directed to be paid together 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 appellant – claimant has filed this appeal seeking for enhancement of compensation.

4. The main ground that was urged before this Court is that the Tribunal below had proceeded to apply multiplier method on account of the fact that the appellant – claimant suffered 100% disability, that however, while fixing the notional monthly income, the Tribunal below fixed only a sum of Rs.8,000/- without



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considering the exhibits that were marked on the side of the appellant – claimant, which would show that the appellant – claimant was earning a sum of Rs.34,000/- per month and that the compensation fixed under the other heads is on the lower side and that it requires enhancement.

5. Per contra, the learned counsel appearing for the second respondent – Insurance Company has submitted that the Tribunal below merely acted upon the evidence of a private doctor, who was examined as P.W.4, that the Tribunal below proceeded to fix 100% disability based on what was suggested by P.W.4 and that therefore, as there was improper determination of the disability based on the ipse dixit of a private doctor, the compensation as fixed by the Tribunal below has to be sustained without any enhancement.

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.



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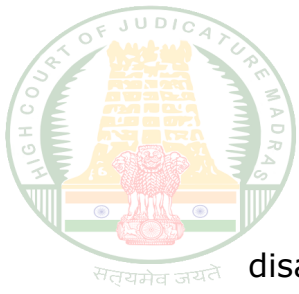
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7. In the case in hand, the accident had taken place in the year 2013. The Tribunal below appreciated the entire evidence and took into consideration the evidence of the doctor and also the nature of injuries sustained by the appellant claimant. Ultimately, the Tribunal below fixed 100% towards disability suffered by the appellant – claimant. This finding rendered by the Tribunal below does not suffer from any perversity.

8. The accident took place in 2013 and the Tribunal below arrived at the notional monthly income at Rs.8,000/-. Even if the exhibits marked on the side of the appellant – claimant were not acted upon, since they were not marked through the employer, this Court can fix the notional monthly income at Rs.12,000/-. Hence, the compensation under the head 'permanent disability' is calculated as follows:

$$\text{"Rs.12,000/-} \times 12 \times 15 \times 100\% = \text{Rs.21,60,000/-"}.$$

9. In so far as the compensation that has been fixed under the head 'loss of amenities' is concerned, it is a case where 100%



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disability was fixed by the Tribunal below. In the light of the decision of the Hon'ble Apex Court in ***Rajkumar Vs. Ajaykumar [reported in AIR ONLINE 2010 SC 144]*** wherein it has been held that if the disability crossed 50%, there is no question of fixing any compensation under the head 'loss of amenities', the compensation fixed under this head is set aside.

10. In so far as the compensation that have been fixed under the other heads are concerned, the same are found to be reasonable and does not require the interference of this Court.

11. In the light of the above discussions, the award passed by the Tribunal below is modified as follows:

S.No	Head	Amount awarded by the Tribunal below	Amount awarded by this Court in this appeal
1	Permanent disability	Rs.14,40,000/-	Rs.21,60,000/-
2	Pain and sufferings	Rs. 42,500/-	Rs. 42,500/-
3	Medical expenses	Rs. 50,000/-	Rs. 50,000/-
4	Extra nourishment	Rs. 15,000/-	Rs. 15,000/-
5	Future medical expenses	Rs. 20,000/-	Rs. 20,000/-
6	Loss of amenities	Rs. 50,000/-	-----
7	Transport & other incidental expenses	Rs. 31,700/-	Rs. 31,700/-
	Total:	Rs.16,49,200/-	Rs.23,19,200/-



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12. Accordingly, the above civil miscellaneous appeal is partly allowed and the award dated 18.3.2016 made in MCOP.No.940 of 2013 is modified to the extent that the second respondent shall deposit a sum of Rs.23,19,200/- (Rupees twenty three lakhs nineteen thousand and two hundred only) together with accrued interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit within six weeks from the date of receipt of a copy of this judgment. It is made clear that the appellant – claimant will not be entitled to claim interest for the delayed period of 841 days in filing the appeal as per the order passed by this Court dated 26.7.2022 in CMP.No.9903 of 2022. No costs.

07-07-2026

To
1.The Motor Accident Claims Tribunal
(Principal Subordinate Court) Cuddalore.
2.The Tata AIG General Insurance
Co.Ltd., Raheja Towers, 9 th Floor,
Thousand Lights, Chennai District.

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