



C.M.A.No.100 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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|                           |                             |
|---------------------------|-----------------------------|
| Reserved on<br>15.02.2023 | Pronounced on<br>24.02.2023 |
|---------------------------|-----------------------------|

CORAM

**THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN**

**C.M.A.No.100 of 2023**

M.H.Kalinga,  
S/o.M.Husenappa,  
Old No.14, N.No.11, Thiruvallur 3<sup>rd</sup> Cross Street,  
Killambakkam, Urappakkam,  
Kanchipuram 603 210.

... Appellant

Vs.

1.A.D.Manimekhalai,  
D.No.4/101 B, Avarangampalayam,  
Kottavar, Athampatty,  
Mavelipalayam,  
Sankari Taluk and Salem District 637 301.

2.The National Insurance Company Limited,  
Motor Third Party Claims Office,  
No.66, 1<sup>st</sup> Floor, Greams Road,  
Chennai 600 006.

... Respondents

**Prayer:** Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 22.07.2022 in MCOP.No.4906 of 2019 on the file of the Motor Accident Claims Tribunal ( III Small Causes Court), Chennai.



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For Appellant : Mr.R.Nalliyappan

For Respondents : Mr.J.Chandran (for R2)

### **J U D G M E N T**

Mr.J.Chandran, learned counsel, takes notice on behalf of the 2<sup>nd</sup> Respondent/Insurance Company. By consent of both the parties, the Appeal is taken up for final disposal.

2.The Appeal has been filed against the Judgment and Decree dated 22.07.2022 in MCOP.No.4906 of 2019 on the file of the Motor Accident Claims Tribunal (III Small Causes Court), Chennai.

3.The claim Petitioner is the Appellant herein. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

4.The claim Petitioner filed MCOP.No.4906 of 2019, seeking compensation for the injuries sustained by him in a road traffic accident occurred on 18.08.2019. The Tribunal has awarded a sum of Rs.3,31,400/-



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with interest at the rate of 7.5% per annum. Aggrieved against the same and seeking enhancement, he has preferred this Appeal.

5.The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the 1<sup>st</sup> Respondent's vehicle, insured with the 2<sup>nd</sup> Respondent are not under challenge in this Appeal. Accordingly, the finding rendered by the trial Court that the accident taken place due to the rash and negligent driving of the driver of the 1<sup>st</sup> Respondent's vehicle, insured with the 2<sup>nd</sup> Respondent are hereby confirmed.

6.During the trial, on the side of the claim Petitioner, PW1 was examined, Ex.P.1 to Ex.P.9 were marked and on the side of the Respondents, none was examined and no document was marked and Court document viz., Ex.C1 was also marked.

7.Heard the learned counsel for the claim Petitioner and learned counsel for the Insurance Company.

8.As per Ex.C.1/Medical Board Certificate, the claim Petitioner has



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suffered 16% permanent disability and as the accident is of the year 2019, the Tribunal has rightly fixed Rs.5,000/- per percentage for disability and accordingly, awarded a sum of Rs.80,000/- towards permanent disability. The same is hereby confirmed. As per Ex.P.5/Medical bills, a sum of Rs.3,28,225/- was awarded by the Tribunal, the same is hereby confirmed. A sum of Rs.20,000/- was awarded by the Tribunal towards loss of income, the same is hereby enhanced to Rs.40,000/-.

9.A sum of Rs.10,000/- was awarded by the Tribunal towards mental agony, the same is hereby vacated. At the time of the accident, the claim Petitioner was 25 years old and lost his front teeth and hence a sum of Rs.10,000/- is awarded towards marital aspects. Taking into consideration that the claim Petitioner was taking treatment as inpatient for a period of 9 days, a sum of Rs.10,000/- is awarded towards attender charges. After going through the evidence of PW1 and in the absence of any contra evidence, the trial Court has come to the conclusion that injured was not having valid driving license at the time of the accident, and accordingly, the contributory negligence fixed by the Tribunal at 35% is reduced to 10%.



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| <b>S.No.</b> | <b>Heads</b>            | <b>Amount (Rs.)</b> |
|--------------|-------------------------|---------------------|
| 1            | Permanent disability    | 80000               |
| 2            | Medical expenses        | 328225              |
| 3            | Loss of income          | 40000               |
| 4            | Pain and sufferings     | 20000               |
| 5            | Transportation expenses | 10000               |
| 6            | Nutrition expenses      | 10000               |
| 7            | Damages to cloths       | 2000                |
| 8            | Attender charges        | 10000               |
| 9            | Loss of amenities       | 30000               |
| 10           | Loss of marital aspects | 10000               |
|              | Total                   | 540225              |
|              | 90% of compensation     | 486202.50           |
|              | Rounded off             | 486200              |

The interest awarded by the tribunal at the rate of 7.5% per annum is also hereby confirmed.

10.In total, the claim Petitioner is entitled to a sum of Rs.4,86,200/- (Rupees four lakh eighty six thousand and two hundred only).

11. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the award amount from Rs.3,31,400/- to Rs.4,86,200/- to the extent indicated above, with



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7.5% interest per annum. No Costs.  
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(ii) the Insurance Company is directed to deposit the enhanced award amount before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) on such deposit being made, the claim Petitioner/Appellant is permitted to withdraw the entire enhanced award amount with accrued interest and costs, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) the claim Petitioner/Appellant is directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

**24.02.2023**

Index : Yes/No  
Neutral citation : Yes/No  
Speaking Order/Non-Speaking Order  
sai

To

6/8



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The Presiding Officer,  
Motor Accident Claims Tribunal,  
III Court of Small Causes,  
Chennai.



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**RMT.TEEKAA RAMAN.J,**

*sai*

**Pre-delivery Judgment made in**

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**Dated:24.02.2023**