



C.M.A.No.1794 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 12.02.2024

CORAM:

**THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY**

**C.M.A.No.1794 of 2022**

Balan

.. Appellant

**Vs.**

1. Ramachandran

(R1 remained exparte before the Tribunal hence,  
his presence may be dispensed with)

2. The United India Insurance Company Limited,  
No.134, Silingi Building,  
(MACT Claim) Greams Road,  
Chennai- 600 002.

.. Respondents

**Prayer:** This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 23.04.2019 made in M.A.C.T.O.P.No.5744 of 2016 on the file of the Motor Accident Claims Tribunal, VI Court of Small Causes, Chennai.

For Appellant : Ms.Sunithi Abirami  
for Mr.K.M.Ramesh  
For Respondents : Mr.K.Swaminathan (R2)

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

**WEB COPY** This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 23.04.2019 made in M.A.C.T.O.P.No.5744 of 2016 on the file of the Motor Accident Claims Tribunal/VI Court of Small Causes, Chennai.

2.The appellant is the claimant in M.A.C.T.O.P.No.5744 of 2016 on the file of the Motor Accident Claims Tribunal/VI Court of Small Causes, Chennai. He filed the above said claim petition, claiming a sum of Rs.7,00,000/- as compensation on account of the injuries sustained by him in an accident that took place on 18.04.2016.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the lorry bearing registration No.TN-10-Q-5488, belonging to the 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of Rs.1,55,600/- as compensation to the appellant/claimant.

4.Not being satisfied with the amounts awarded by the Tribunal, the



appellant has come out with the present appeal seeking enhancement of compensation.

5.The learned counsel appearing for the appellant contended that at the time of accident, the appellant/claimant was aged 62 years and was earning by his avocation as a coolie, and due to the aforesaid accident, he sustained injuries like fracture of both bone right leg and other multiple grievous injuries, that apart he was admitted at Stanly Government Hospital as in-patient from 19.04.2016 to 03.05.2016 and therefore he was not able to work for six months, but the Tribunal has awarded compensation towards Loss of Income only for two months. He further submitted that the Medical Board has assessed the disability of the appellant/claimant @ 15%. but the Tribunal without taking note of the year of the accident has fixed a sum of Rs.3,000/- per percentage while determining the compensation towards Disability. He further submitted that the amount of compensation awarded under other heads is also very low and hence prayed for enhancement of the compensation.

6. The learned counsel appearing for the 2<sup>nd</sup> respondent-Insurance



Company submitted that the Claims Tribunal after considering oral and documentary evidence, has rightly awarded compensation under various heads and therefore the same does not warrant any interference.

7. Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the 2<sup>nd</sup> respondent-Insurance company and perused the entire materials on record.

8. The accident is of the year 2016. Considering the age and nature of injuries sustained by the claimant, this Court deems it appropriate to award Loss of Income for four months. Accordingly, a sum of Rs.40,000/- (10,000x4) is awarded under the head ***Loss of Income*** by taking the monthly income at Rs.10,000/-. Taking note of year of accident, this Court is of the view that a sum of Rs.5,000/- per percentage can be fixed while determining the compensation towards Disability. Accordingly, a sum of ***Rs.75,000/- (15x5000)*** is awarded under the head ***Disability***.

9. The amounts awarded by the Tribunal under other heads are just and reasonable and, in fact, though the claimant contends that the compensation



awarded under other heads are meagre, however, a perusal of the compensation awarded reveals that the Tribunal has rightly awarded the compensation under the other heads and, accordingly, same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

| S. No | Description                | Amount awarded by Tribunal (Rs)        | Amount awarded by this Court (Rs)        | Award confirmed or enhanced or granted |
|-------|----------------------------|----------------------------------------|------------------------------------------|----------------------------------------|
| 1.    | Disability                 | 45,000/-                               | 75,000/-                                 | Enhanced                               |
| 2.    | Pain and Suffering         | 50,000/-                               | 50,000/-                                 | Confirmed                              |
| 3.    | Extra nourishment          | 10,000/-                               | 10,000/-                                 | Confirmed                              |
| 4.    | Transport to Hospital      | 10,000/-                               | 10,000/-                                 | Confirmed                              |
| 5.    | Damage to clothes          | 1,000/-                                | 1,000/-                                  | Confirmed                              |
| 6.    | Attender charges           | 7,500/-                                | 7,500/-                                  | Confirmed                              |
| 7.    | Medical Expenses           | 2,027/-                                | 2,027/-                                  | Confirmed                              |
| 8.    | Loss of Income             | 20,000/-                               | 40,000/-                                 | Enhanced                               |
| 9.    | Loss of Amenities          | 10,000/-                               | 10,000/-                                 | Confirmed                              |
|       | <b>Total (Rounded off)</b> | <b>Rs.1,55,527/-<br/>Rs.1,55,600/-</b> | <b>Rs.2,05,527/-<br/>(Rs.2,05,600/-)</b> | <b>Enhanced by<br/>Rs.50,000/-</b>     |

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,55,527/- is hereby enhanced to Rs.2,05,600/- together with interest at the rate of 7.5% per



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annum from the date of petition till the date of deposit. The 2nd Respondent-Insurance Company is directed to deposit the award amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of **six weeks** from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.5744 of 2016 on the file of the Motor Accidents Claims Tribunal, Chennai. On such deposit being made, the Tribunal is directed to transfer the Award amount directly to the Bank account of the Appellant/Claimant through RTGS, within a period of **three weeks**. The claimant is directed to pay necessary Court fee, if any on the enhanced compensation. However, it is made clear that if there is any delay in filing the C.M.A. and in case of any earlier order by this Court, depriving interest for the period of delay in question, the interest portion for that period should be excluded for the purpose of granting interest. No costs.

**12.02.2024**

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Index : Yes / No  
Internet : Yes / No



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To

1. The United India Insurance Company Limited,  
No.134, Silingi Building,  
(MACT Claim) Greams Road,  
Chennai- 600 002.
2. The Motor Accidents Claims Tribunal,  
(VI Court of Small Causes), Chennai.
3. The Section Officer,  
VR Section,  
High Court,  
Madras.



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**KRISHNAN RAMASAMY, J.**

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