



WEB COPY

CMA NOS.3927 & 3204 OF 2019
AND 149 OF 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON: 06 / 11 / 2024

JUDGMENT DELIVERED ON: 12 / 11 / 2024

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU
AND
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

CMA NOS.3927 AND 3204 OF 2019 AND 149 OF 2022
AND
CMP NO.18271 OF 2019 IN CMA NO.3204 OF 2019
AND
CMP NO.1110 OF 2022 IN CMA NO.149 OF 2022

CMA NO.3927 OF 2019

K.Sundaramoorthy

... Appellant /
Petitioner

Vs.

1.R.S.Amuthan
2.M/s.United India Insurance Co. Ltd.,
MO Office
Sahayamatha Auction Centre Complex
Palakkarai Thenkarai Thirvaiyaru,
Tanjavur District – 613 004.

... Respondents /
Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, for enhancement of compensation against the Award dated January 24, 2019, passed in M.C.O.P.No.140 of 2016 on the file of the Motor Accident Claims Tribunal at Ariyalur (Chief Judicial Magistrate).



CMA NOS.3927 & 3204 OF 2019
AND 149 OF 2022

For Appellant : Mr.R.Gokulakrishnan

For Respondent-1 : Mr.S.Muthukrishnan

For Respondent-2 : Mr.S.Arunkumar

CMA NO.3204 OF 2019

R.S.Amuthan ... Appellant /
1st Respondent

Vs.

1.M/s.United India Insurance Company Ltd.,
M.O. Office
Sahayamatha Auction Centre Complex
Palakkarai, Thenkarai, Thirvaiyaru,
Tanjavur District. ... Respondent /
2nd Respondent

2.Sundaramurthy ... Respondent /
Petitioner

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, praying to modify the Award dated January 24, 2019, passed in M.C.O.P.No.140 of 2016 on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate, Ariyalur, regarding the portion of the Award pay and recovery and quantum of the compensation amount.

For Appellant : Mr.S.Muthukrishnan

For Respondent-1 : Mr.C.Paranthaman

For Respondent-2 : No appearance



CMA NOS.3927 & 3204 OF 2019
AND 149 OF 2022

WEB COPY
CMA NO.149 OF 2022

M/s.United India Insurance Company Ltd.,
M.O. Office
Sahayamatha Auction Centre Complex
Palakkarai, Thenkarai, Thirvaiyaru,
Tanjavur District – 613 004.

... Appellant /
2nd Respondent

Vs.

1.Sundaramoorthy

... 1st Respondent
Petitioner

2.R.S.Amuthan

... 2nd Respondent /
1st Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, praying to set aside the Award dated January 24, 2019, passed in M.C.O.P.No.140 of 2016 on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate, Ariyalur.

For Appellant : Mr.S.Arunkumar

For Respondents : No appearance



CMA NOS.3927 & 3204 OF 2019
AND 149 OF 2022

COMMON JUDGMENT

R.SAKTHIVEL, J.

This Common Judgment will govern the following Civil Miscellaneous Appeals filed assailing the ‘Award dated January 24, 2019, passed in M.C.O.P.No.140 of 2016’ [henceforth ‘impugned Award’], by the ‘Motor Accident Claims Tribunal at Ariyalur (Chief Judicial Magistrate)’ [henceforth ‘Tribunal’]:

- (i) C.M.A.No.3927 of 2019 filed by the petitioner seeking enhancement of compensation,
- (ii) C.M.A.No.3204 of 2019 filed by the first respondent praying to set aside the impugned Award,
- (iii) C.M.A.No.149 of 2022 filed by the second respondent praying to set aside the impugned Award.

2. Hereinafter, for the sake of convenience, the parties will be denoted as per their array before the Tribunal.



CMA NOS.3927 & 3204 OF 2019
AND 149 OF 2022

PETITIONER'S CASE IN BRIEF:

WEB COPY

3. The petitioner - Sundaramoorthy, at the time of the accident was aged about 21 years and was an engineering graduate employed in a private company. On the fateful day viz., September 17, 2015, the petitioner was returning to hometown from a friend's wedding at Orathanadu along with his friends, Amuthan (first respondent) and Raj, on first respondent's Yamaha two-wheeler bearing Registration No. TN-69-F-5492. First respondent was on the wheel while the petitioner and the said Raj were on the pillion.

3.1. Near Madigai village at about 16.00 Hours, the first respondent rode rashly and negligently, and he failed to notice a speed bump and hit it at high speed. This knocked them off the bike, injuring all three. The petitioner suffered severe head injury, multiple fractures and other bodily injuries. He was rushed to Thanjavur Medical College Hospital for first aid, and thereafter admitted as an inpatient in Meenakshi Hospital, Thanjavur from September 17 to November 12, 2015. The serious head injury left the petitioner in coma. As on the date of application, he was still undergoing treatment.



WEB COPY

3.2. The Thanjavur Taluk Police registered a case in Crime No. 407 of 2015 under Sections 279 and 337 of the 'Indian Penal Code, 1860' (henceforth 'IPC' for brevity) against the first respondent - Amuthan for his rash and negligent riding. First respondent pleaded guilty and paid a fine before the Judicial Magistrate, Thanjavur.

3.3. The first respondent as owner and driver of the two-wheeler bearing Registration No. TN-69-F-5492, and the second respondent being its insurer, are jointly and severally liable for compensation. Accordingly, the petitioner who was represented by his father - Kuzhanthaivel as his next friend for the reason that the petitioner was in coma, filed an application before the Tribunal seeking compensation of Rs.1,00,00,000/- (Rupees One Crore only) on February 16, 2016 and the same was taken on file on March 29, 2016.

FIRST RESPONDENT'S CASE IN BRIEF:

4. The first respondent filed Counter, whereby he denies the manner of accident. He avers that the petitioner is put to strict proof of age, occupation, income, injuries, period of treatment, *etc.* Further states that the claim and injuries are exaggerated. Further that, at the time of accident,



he had a valid driving licence and rode in a careful manner at a limited speed. He alleges that it is the petitioner who lost balance owing to his negligence, and fell off the bike while the first respondent was riding carefully in normal speed. Hence, according to the first respondent, there was contributory negligence on the part of the petitioner. Accordingly, he prayed to dismiss the Original Petition.

CASE OF THE SECOND RESPONDENT:

5. The second respondent filed Counter, whereby he denies the averments made in the petition. They contend that triple riding is violative of the terms of policies and it being an offence under the Motor Vehicles Act, 1988, the second respondent is not liable to compensate the petitioner. The accident happened due to the negligence of the first respondent who has admitted the same and paid fine before Court of law; hence the first respondent is responsible for the accident. The petitioner is put to strict proof of age, occupation, income, injuries, period of treatment, *etc.* The documents filed by the petitioner would demonstrate the fact that he is a student and not an employee. The claim and injuries are exaggerated. Accordingly, he prayed to dismiss the Original Petition.



CMA NOS.3927 & 3204 OF 2019
AND 149 OF 2022

EVIDENCE:

WEB COPY

6. On the side of the petitioner, the plaintiff himself was examined as P.W.1 and the three other witnesses were examined as P.W.2 to P.W.4. Ex-P.1 to Ex-P.25 and Ex-X.1 & Ex-X.2 were also marked. On the side of the respondents, two witnesses were examined as R.W.1 and R.W.2 and Ex-R.1 was marked.

FINDINGS OF TRIBUNAL:

7. Upon hearing both sides and considering the oral and documentary evidence, the Tribunal relying on the evidence of P.W.1, Ex-P.1 – First Information Report (FIR) and Ex-P.2 - Charge Sheet, concluded that the accident occurred due to the rash and negligent riding of the first respondent. Further held that at the time of accident the first respondent's vehicle was insured with the second respondent and that the factum of triple riding, which amounts to violation of insurance policy, was proved. Accordingly, the Tribunal concluded that the second respondent shall pay compensation and then recover the same from first respondent. As regards quantum of compensation, the Tribunal held that the petitioner is an engineering graduate working as an apprentice, thereby drawing a monthly



CMA NOS.3927 & 3204 OF 2019
AND 149 OF 2022

WEB COPY

stipend of Rs.7,488/-; that based on Ex-P.19 – Disability Certificate as well as the evidence of P.W.2 and P.W.4 – Doctors, the Tribunal concluded that the petitioner suffered 72% partial permanent disability. Accordingly, the Tribunal directed the second respondent to pay a sum of Rs.23,86,911.44/- with interest at the rate of 7.5% per annum from the date of petition till the date of realisation, and then recover the same from first respondent. The split up figure is as follows:

Compensation awarded by the Tribunal		
S.No.	Head	Amount
1)	Disability Compensation	Rs.10,99,837.44 (i.e., 7488 x 12 x 17 x 72 %)
2)	Loss of Matrimonial Life and loss of Future prospects and Loss of Comforts	Rs.1,00,000.00
3)	Pain & Sufferings	Rs.50,000.00
4)	Attender Charges	Rs.50,000.00
5)	Further Medical Expenses and Travelling expenses	Rs.25,000.00
6)	Food and Nutrition	Rs.25,000.00
7)	Medical Bills	Rs. 10,37,074.00
	Total	Rs. 23,86,911.44



CMA NOS.3927 & 3204 OF 2019
AND 149 OF 2022

WEB COPY

8. Aggrieved by the impugned Award, the petitioner, the first respondent as well as the second respondent filed these Civil Miscellaneous Appeals as stated *supra*.

DISCUSSION:

9. Heard on both sides. Perused the entire evidence available on record.

NEGLIGENCE

10. The petitioner's case is that the petitioner, the first respondent and one Raj are friends. On September 17, 2015, they were returning from a marriage on the first respondent's two-wheeler bearing Registration No. TN-61-F-5492; the first respondent was on the wheels while the petitioner and the said Raj were on the pillion. While nearing Madigai Village, at about 16.30 hours, due to the rash and negligence of the first respondent, they met with an accident and consequently, the petitioner suffered a severe head injury as well as other injuries. Thereafter, the said Raj preferred a complaint with Thanjavur Taluk Police on September 20, 2015.



WEB COPY



CMA NOS.3927 & 3204 OF 2019
AND 149 OF 2022

11. In response, the Police registered a case against the first respondent under Sections 279 and 337 of IPC. Ex-P.1 is the FIR. After investigation, Police filed a Final Report against the first respondent and the same is marked as Ex-P.2. The first respondent examined himself as R.W.1. He admitted that the factum of him riding his two-wheeler bearing Registration No. TN-61-F-5492 with the said Raj and the petitioner as pillion riders on September 17, 2015; and that petitioner was sitting right next him and next to the petitioner was the said Raj. According to R.W.1, he rode the vehicle carefully and the accident occurred only due to the negligence of the petitioner in attempting to get down the bike before the first respondent had slowed it down. Consequently, the petitioner got hit on his head by a stone lying down on the road and suffered severe injuries, while the first respondent and the said Raj suffered minor injuries. However, in his cross-examination, he has admitted that the accident occurred only when he lost control while running fast over a speed breaker and that he has paid fine in Criminal Court admitting the offences levelled against him.



WEB COPY

12. The evidence of R.W.1 who is the first respondent, coupled with the evidence of Ex-P.1 and Ex-P.2, would clearly establish that the accident happened only due to the rash and negligence of the first respondent. Ex-P.5, the Motor Vehicle Inspection Report (MVI Report), coupled with the evidence of R.W.1, Ex-P.1, Ex-P.2 and Ex-P.6 – Registration Certificate, confirms that the vehicle bearing Registration No. TN-61-F-5492 belonging to the first respondent was involved in the accident when the first respondent was on the wheel. Ex-P.6 shows that the vehicle is classified as ‘solo with pillion’ type which means it is meant for only two people to travel on it at a time. Ex-P.7 is the Package Insurance Policy, valid from August 28, 2015 to August 27, 2016, issued for the first respondent’s vehicle. Ex-P.7 being a Package Insurance Policy, it covers the pillion rider too. As admitted by R.W.1, the petitioner was sitting right next to him. Hence, the petitioner is the pillion rider and no doubt, he is covered under Ex-P.7.

13. Admittedly, it is a case of triple riding in a two wheeler which is violative of the terms of Ex-P.7. The learned Counsel for the first respondent would contend that triple riding in a two wheeler though



CMA NOS.3927 & 3204 OF 2019
AND 149 OF 2022

WEB COPY

attracts penal provisions, is not a conclusive proof of negligence; and that the admission of the first respondent before Criminal Court is also not a conclusive proof of negligence. To be noted, while it is true that the burden to prove the negligence is on the petitioner, he is in an unconscious state and not in a position to depose before the Court. Though the petitioner did not depose before the Court, in view of Ex-P.1, Ex-P.2 and the admission made by first respondent before the Criminal Court, the petitioner has *prima facie* established his case. Now the onus shifts onto the first respondent to prove that the accident did not occur due to any negligence on the first respondent as alleged. He failed to examine any independent witness. He has not discharged the onus upon him. Further, first respondent who admitted his negligence before a Criminal Court, cannot take a different stand here. To be noted, the first respondent has deposed that he is an engineering graduate, that is to say he is not a rustic. This Court is of the view that first respondent being an engineering graduate who consciously admitted his offence before a Criminal Court, knows the consequences of his admissions. Hence, the first respondent is estopped from contending otherwise.



WEB COPY

14. Learned Counsel for the second respondent would contend that since all the three persons consciously knowing the danger involved, travelled together in a two-seater vehicle which is violative of the terms of Ex-P.7, they three are joint tort-feasors and the petitioner is not a 'third party', and therefore, the Insurance Company is not liable to indemnify the first respondent. The said argument deserves to be rejected because Ex-P.7 is a Package Insurance Policy which covers the pillion rider too. As stated *supra*, the petitioner who was sitting right next to the first respondent shall be treated as the pillion and hence, he is entitled to claim compensation under Ex-P.7 [See *National Insurance Company Limited -vs- Balakrishnan and another*, reported in *2013 1 SCC 731*]. Therefore, the Insurance Company cannot escape from its liability. However, it shall be entitled for 'Pay and Recovery'.

15. To sum up, this Court is of the view that the accident occurred due to the rash and negligent riding of the first respondent; that the first respondent violated the terms of Ex-P.7; and that since Ex-P.7 was live on the date of accident, the Insurance Company is liable to pay compensation and then, recover the same from the first respondent. The Tribunal has rightly fixed the negligence on the first respondent and



CMA NOS.3927 & 3204 OF 2019
AND 149 OF 2022

ordered for 'Pay and Recovery'. There is no illegality or infirmity with the said findings.

QUANTUM OF COMPENSATION

16. Immediately after the accident, the petitioner was rushed to Thanjavur Medical College Hospital for first aid, and then admitted as an inpatient in Meenakshi Hospital, Thanjavur from September 17 to November 12, 2015. P.W.2 - Dr.A.Saravanel issued Ex-P.4 – Wound Certificate wherein he has noted the following injuries:

“1)Multiple abrasions noted on right and left side of face, nose, left fore arm and right wrist joint.

2)Right Front temporal parietal subdural head noted

3)Hemorrhage contusion noted in right fronto temporal cortex and left fronto temporal cortex

4)Hemorrhage noted in cerebella folia right side

5)Bleed in left occipital horns

6)Fracture left parietal and petrous and squamous temporal bones

7)Fracture noted in planum sphenoidale

8)Right eye optic nerve injury”

9)Pyopneumothorax



WEB COPY



CMA NOS.3927 & 3204 OF 2019
AND 149 OF 2022

10) Left eye optic nerve injury”

17. Ex-X.1 - Discharge Summary shows that the petitioner has been admitted in the Hospital on 6 spells as tabulated hereunder:

S.No.	From	To	Purpose
1)	17.09.2015	12.11.2015	CT Scan revealed (R) FTP ACUTE SDH. Hence, under GA, (R) FTP DECOMPRESSIVE HEMICRANIECTOMY WITH EVACUATION OF SDH was done.
2)	25.11.2015	01.12.2015	Admitted with Fever post-surgery
3)	12.12.2015	23.12.2015	Cough and Mild Rigour
4)	23.03.2016	30.03.2016	Tracheostomy closure
5)	13.06.2016	18.06.2016	Admitted with (R) FPT Bony Defect

18. From the above it is clear that the petitioner was admitted as in-patient for about 90 days. P.W.2 – Doctor Saravanel has deposed that the patient is unconscious and suffers from dual incontinence of urine and stool; that he is oriented to time and place; that his left arm and leg have significantly weakened; that he can only move with assistance or external support and is unable to walk independently; that he has speech difficulties; that he has suffered memory loss to the extent that he does not recall the accident; that the likelihood of recovery is uncertain; that ongoing treatment is essential; that as of February 2, 2017, he was last treated as an out-patient on January 3, 2017; that physiotherapy and speech therapy



WEB COPY

have been prescribed; and that Ex-X.3 – Medical Bills document the expenses incurred between September 17, 2015, and November 12, 2015, amounting to Rs. 8,65,078/- (Rupees Eight Lakh Sixty-Five Thousand and Seventy-Eight Only). He further deposed that he was the one who initially treated the petitioner at emergency ward and that though he did not treat the petitioner thereafter, he is deposing only after consulting the concerned doctors who treated the petitioner and after perusing the concerned medical records.

19. P.W.4 – Doctor Senthamarai Kannan working as Assistant Professor specialised in Neurology, at Thanjavur Government Medical College, Thanjavur, has deposed that on November 19, 2015, he examined the petitioner at Golden Hospital, Ariyalur. Then CT Scan was taken on November 19, 2017. Based on his examinations and the records including Ex-P.20 - CT Report of the CT scan on November 19, 2017, he issued Ex-P.19 - Disability Certificate assessing the petitioner's disability due to the brain injury as 72% permanent partial disability. He further deposed that a psychiatrist is a person competent to depose about the mental health of the petitioner.



20. The petitioner filed Ex-P.25 – Medical Bills relating to 2017 and 2018 to show the expenses incurred after filing this Original Petition on February 16, 2016. Ex-P.25 shows that the petitioner incurred a sum of Rs.25,079.50/- (Rupees Twenty Five Thousand Seventy Nine and Fifty Paise Only). This also indicates that the petitioner was continuing treatment.

21. P.W.3 – Driver cum Owner of Saratha Travels has deposed that he took the petitioner from the petitioner's place at Vettriyur Village, Ariyalur to Meenakshi Hospital, Thanjavur and back, 20 times, between November 12, 2015 and July 18, 2016. Further that he charged Rs.1,500/- for each and every trip. Receipts (totally 20) for the travel were marked through him as Ex-P.18. Further, Ex-P.23 is the receipt for the trip undertaken by the petitioner on December 4, 2017 from Vettriyur Village at Ariyalur to Aravind Eye Hospital, Madurai. Medical prescription and bills issued by Aravind Eye Hospital has been marked as Ex-P.21 and Ex-P.22 respectively. Combined reading of Ex-P.21 to Ex-P.23 proves that the petitioner undertook treatment at Aravind Eye Hospital, Madurai and incurred travel expenses.



CMA NOS.3927 & 3204 OF 2019
AND 149 OF 2022

WEB COPY

22. P.W.1 deposed that his son / petitioner, has completed B.E. Electrical And Electronics Engineering Degree in Periyar Maniammai Univeristy, Vallam, Thanjavur District. Ex-P.14 is the course completion certificate dated May 30, 2014 issued by the said University in favour of the petitioner. Ex-P.15 contains three Certificate of Participation issued in favour of the petitioner for his participation in a seminar, a workshop and a training program. Ex-P.24 is a Letter issued by Ransar Industries – II, which is a unit of CRI Pumps Private Limited Coimbatore. Ex-P.16 is the Identity Card issued by the said Industry. Both show that the petitioner was working under them as an apprentice with a consolidated stipend of Rs.7,488/- (Rupees Seven Thousand Four Hundred and Eighty Eight Only) per month from July 15, 2014 to March 3, 2015.

23. P.W.1 has deposed that his son was working in Coimbatore and earning a sum of Rs.15,000/- (Rupees Fifteen Thousand Only) per month and that the petitioner would send home Rs.10,000/- (Rupees Ten Thousand Only) per month after his expenses. The accident occurred in the year 2015. In the year 2014, the petitioner was working in a company as an apprentice with a stipend of Rs.7,488/-. After



CMA NOS.3927 & 3204 OF 2019
AND 149 OF 2022

WEB COPY

apprenticeship from a reputed company like CRI Pumps, it is plausible and natural that an Engineering graduate lands up on a job with a salary around Rs.15,000/-. Hence, the evidence of P.W.1 that his son was employed in Coimbatore earning a sum of Rs.15,000/- at the time of accident is believable and there is nothing on record to reject the same. Even otherwise, if this Court is to take notional income, an Engineering Graduate could have easily earned Rs.15,000/- in the year 2015. Moreover, as evident from Ex-P.15, the petitioner has participated in training programs and workshops which positions him for a higher pay. Hence, this Court is of the view that the Tribunal treating the stipend paid to the petitioner 6 months before the accident during his apprenticeship as the petitioner's income is not right.

24. Further, the P.W.4 – Doctor Senthamarai Kannan has deposed and certified that the petitioner has suffered 72% partial permanent disability owing to the head injury. But in view of the deposition of P.W.2 – Doctor Saravanavel (See Paragraph No.18) coupled with the deposition of P.W.4 and other medical records, this Court is of the view that the petitioner suffered 100% functional disability. He cannot



WEB COPY

pursue any job or live on his own. Hence, Multiplier method shall be employed to assess the loss of earning capacity. The petitioner's date of birth is June 10, 1993, as evident from his birth certificate marked as Ex-P.13. Hence, on the date of accident the petitioner was 22 years old, which means correct multiplier as per ***Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.*** reported in ***(2009) 6 SCC 121*** is 18. Multiplier of 17 applied by the Tribunal is erroneous. Furthermore, the Tribunal failed to add future prospects as per the dictum laid down in Paragraph No.59.4 in ***National Insurance Company Limited v. Pranay Sethi & Ors*** reported in ***(2017) 16 SCC 680*** which reads as under:

“59.4. In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.”

25. Further, Ex-P.11 and Ex-P.12 shows that the petitioner is undergoing physiotherapy as well as Siddha treatment and that the petitioner has to spend a considerable amount for the same. Further, Ex-



CMA NOS.3927 & 3204 OF 2019
AND 149 OF 2022

P.10 which is a bunch of bills filed in support of future medical expenses includes certain bills already covered by Ex-X.3. Hence, it cannot be taken as such to determine future medical expenses. But it can be considered as indicative of future medical requirements and expenses. Considering the evidence and materials available on records, especially the evidence of P.W.2 – Doctor, the nature of the injuries and the current state of the petitioner, this Court is of the view that the compensation awarded by the Tribunal under the head of future medical expenses and travelling expenses is on the lower side. Hence, this Court is inclined to award a consolidated sum of Rs.2,00,000/- towards future medical expenses, a consolidated sum of Rs.2,00,000/- towards attender charges for future as well as for the petitioner's 90 days Hospital admission. Further, a sum of Rs.2,00,000/- would be a just compensation under the head of pain and sufferings.

26. Since no personal deductions are made, and since there is no evidence on record to suggest the need for extra nourishment, this Court is of the view that there is no need to award compensation for Food & Extra Nourishment separately as the same is covered under the head of



Disability Compensation. To be noted, no personal deductions were made while calculating Disability Compensation.

27. Further, Ex-P.18 and Ex-P.23 show that the petitioner has totally spent around Rs.36,200/- towards travelling. Keeping in mind the future travelling needs for treatment, this Court is inclined to award a consolidated sum of Rs.60,000/- towards travel expenses.

28. As per Ex-X.3, the petitioner has totally spent a sum of Rs.8,65,078/- between September 17, 2015 to November 12, 2015. Further, Ex-P.25 shows that the petitioner has spent Rs.25,079/- as medical expenses. Hence, this Court is inclined to award the sum total as compensation under the head 'Medical Expenses'.

29. Admittedly, the petitioner is unmarried and due to the accident he has lost his marriage prospects. Hence, this Court is of the view that a sum of Rs.1,00,000/- under the head of 'loss of marriage prospects' would be a reasonable compensation. [See **Chandramani**

Nanda -vs- Sarat Chandra Swain and another, reported in **2024 SCC**



30. To sum up, this Court is inclined to modify the impugned

Award and award compensation as hereunder:

S.No.	Head	Compensation awarded by this Court
1)	Disability Compensation	Rs.45,36,000.00 Note: {[Rs.15,000/- (NI) + Rs.6,000/- (FP)] X18 (M)X 12 (m)} = Rs.45,36,000/-
2)	Pain & Sufferings	Rs.2,00,000.00
3)	Attender Charges	Rs.2,00,000.00
4)	Future Medical Expenses	Rs.2,00,000.00
5)	Medical Expenses (Ex-X.3 - Rs.8,65,078/- + Ex-P.25 - Rs.25,079/-)	Rs. 9,20,157.00
6)	Travel Expenses	Rs.60,000.00
7)	Loss of marriage prospectus	Rs.1,00,000.00
Total		Rs.62,16,157.00
Note: 1) 'NI' denotes 'Notional Income' 2) 'FP' denotes 'Future Prospects' 3) 'M' denotes 'Multiplier' 4) 'm' denotes 'months'		



CMA NOS.3927 & 3204 OF 2019
AND 149 OF 2022

CONCLUSION:

WEB COPY

31. Resultantly, the Civil Miscellaneous Appeals in C.M.A.Nos.3204 of 2019 and 149 of 2022 filed by the first respondent and the second respondent respectively praying to set aside the impugned Award are dismissed. The C.M.A.No.3927 of 2019 filed by the petitioner seeking enhancement of compensation, is allowed with proportionate costs of this appeal and the impugned Award is modified in the following manner:

- (i) An Award of Rs.62,16,157/- (Rupees Sixty Two Lakhs Sixteen Thousand One Hundred and Fifty Seven Only) with interest at the rate of 7.5% per annum from the date of filing petition till the date of deposit is passed in favour of the petitioner and against the first respondent;
- (ii) The second respondent shall deposit the aforementioned Award amount along with interest within 45 days from the date of receipt



of copy of this Judgment in the manner stipulated in the impugned Award and then recover the same from the first respondent by filing an execution petition against the first respondent in the Original Petition. It is clarified that the second respondent need not file a separate Suit in this regard;

- (iii) Out of the aforementioned Award amount, Rs.30,00,000/- (Rupees Thirty Lakhs only) shall be deposited in a nationalised bank. The petitioner / his next friend is permitted to withdraw the interest every year. The interest accruing thereon shall be utilised for the future needs and welfare of the petitioner. While releasing the interest accrued thereon, the Tribunal shall ensure that the same is spent for the welfare of the petitioner;
- (iv) If there is any medical emergency requiring heavy funds, amount shall be released as



WEB COPY



CMA NOS.3927 & 3204 OF 2019
AND 149 OF 2022

required from the said Rs.30,00,000/- subject
to the satisfaction of the Tribunal;

- (v) The petitioner / next friend is permitted to
withdraw the remaining Award Amount along
with all the accrued interest;
- (vi) The appellant / petitioner shall pay Court Fee
for this Appeal as per law within 30 days from
the date of receipt of copy of this Judgment.
- (vii) As far as C.M.A.Nos.3204 of 2019 and 149 of
2022 are concerned, there shall be no order as
to costs.
- (viii) Consequently, connected Civil Miscellaneous
Petitions are closed.

[J.N.B., J.]

[R.S.V., J.]

12 / 11 / 2024

Index : Yes
Neutral Citation : Yes
Speaking Order : Yes
TK



WEB COPY



CMA NOS.3927 & 3204 OF 2019
AND 149 OF 2022

J.NISHA BANU, J.

AND

R.SAKTHIVEL, J.

TK

To

The Motor Accident Claims Tribunal
(Chief Judicial Magistrate)
Ariyalur.

PRE-DELIVERY COMMON JUDGMENT MADE
IN CMA NOS.3927 AND 3204 OF 2019
AND 149 OF 2022

12 / 11 / 2024