



WEB COPY



CMA.No.624 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE. R.HEMALATHA

C.M.A.No.624 of 2023

Satheeshkumar

... Appellant

Vs.

1.Ramesh

2.The Manager,
National Insurance Company Limited,
Divisional Office,
No.33, Purumanot Street,
Trichy - 620 001.

... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 13.05.2019 in M.C.O.P.143 of 2012 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Namakkal.

For Appellant	: Mr.M.Sankar for Mr.C.Thangaraju
For R2	: Mr.K.Padmanabhan
R1	: No appearance



CMA.No.624 of 2023

WEB COPY

JUDGMENT

The appellant is the claimant in M.C.O.P.143 of 2012 on the file of the Motor Accident Claims Tribunal, Namakkal. He filed the above said claim petition under Section 166 of the Motor Vehicles Act, seeking compensation of Rs.5,00,000/- for the injuries sustained by him in a road accident that took place on 05.03.2012.

2. The brief case of the appellant / claimant is as follows :

On 05.03.2012, the claimant was riding his two wheeler bearing Registration No.TN-48-K-8089 on Thuraiyur - Namakkal road. When he was nearing Sellipalayam bus stand, a speeding two wheeler bearing Registration Number TN-46-K-8985 hit the two wheeler driven by the claimant, as a result of which, he fell down and sustained injuries all over his body and was admitted in a private hospital.

2.1. According to the claimant, the rash and negligent riding of the rider of the two wheeler bearing Registration Number TN-46-K-8985 was the cause of accident and that since the said vehicle was insured with



CMA.No.624 of 2023

the second respondent, the National Insurance Company Limited, the owner and the insurer are jointly and severally liable to pay compensation to him.

3. In the Tribunal, the owner of the two wheeler (first respondent) and its insurer remained absent and were set *exparte*.

4. The Tribunal, vide its orders dated 13.05.2019, fastened negligence on the part of the rider of the two wheeler bearing Registration Number TN-46-K-8985 and further held that the owner of the two wheeler and the insurer are jointly and severally liable to pay compensation of Rs.1,78,500/- to the appellant (claimant) together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation.

5. Aggrieved over the quantum of compensation awarded by the Tribunal, the appellant (claimant) has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.



CMA.No.624 of 2023

6. Heard Mr.M.Sankar, learned counsel appearing for the appellant and Mr.K.Padmanabhan, learned counsel for the second respondent.

7. A perusal of the records shows that the claimant had sustained fracture on his left cheek. Dr.S.Palanivel (P.W.2) assessed the partial permanent disability of the claimant as 32%. Since there is no functional disability, the Tribunal fixed a sum of Rs.3,000/- per percentage of disability and awarded a sum of Rs.96,000/- towards partial permanent disability. The accident took place in the year 2012. Therefore, the compensation awarded by the Tribunal under the head partial permanent disability cannot be found fault with.

8. In the claim petition, it is contended that the claimant was aged about 30 years and was a daily wager earning a sum of Rs.10,000/- per month. In the absence of satisfactory income proof, the Tribunal fixed the notional monthly income of the claimant as Rs.4,000/-. The accident took place in the year 2012. Considering the age of the claimant and the year of the accident, this Court is of the opinion that fixing notional



CMA.No.624 of 2023

monthly income of the claimant as Rs.6,000/- would meet the ends of justice. On account of the accident, the appellant would not have been in a position to attend to his regular work atleast for three months. Thus, a sum of Rs.18,000/- (6,000 x 3= 18,000) is awarded towards loss of income. The following tabular column would show the amount awarded by the Tribunal and the enhanced amount awarded by this Court under various heads.

<i>S.No</i>	<i>Heads</i>	<i>Amount awarded by Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
1.	Partial permanent disability	96,000/-	96,000/-
2.	Loss of income	8,000/-	18,000/- (6,000 x 3)
3.	Transportation charges	5,000/-	5,000/-
4.	Extra nourishment	10,000/-	10,000/-
5.	Medical bills	24,500/-	24,500/-
6.	Pain and sufferings	35,000/-	35,000/-
TOTAL		Rs.1,78,500/-	Rs.1,88,500/-



WEB COPY



CMA.No.624 of 2023

9. Thus, the compensation awarded by the Tribunal is enhanced to Rs.1,88,500/- that would carry interest at the rate of 7.5% per annum.

10. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed. No costs.
- ii. The compensation awarded by the Tribunal is enhanced to Rs.1,88,500/-.
- iii. The appellant / claimant is directed to pay the Court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after receipt of Court fee.
- iv. The second respondent, the National Insurance Company Limited, Trichy, is directed to deposit the enhanced compensation amount, i.e., Rs.1,88,500/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.143 of 2012 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Namakkal, within a period of four weeks from



CMA.No.624 of 2023

WEB COPY

the date of receipt of a copy of this order / uploading of this order.

- v. On such deposit being made, the appellant / claimant is at liberty to withdraw the same, after following due process of law.
- vi. The appellant / claimant is not entitled to claim interest for the period of delay of 199 days in filing this appeal.

25.10.2024

Index:Yes/No

Speaking/non Speaking order

Neutral Case citation: yes/no

mtl



WEB COPY



CMA.No.624 of 2023

To

1. The Motor Accident Claims Tribunal,
Chief Judicial Magistrate Court, Namakkal.

2.The Manager,
National Insurance Company Limited,
Divisional Office,
No.33, Purumanot Street,
Trichy - 620 001.

3. The Section Officer, V.R. Section, High Court, Madras.



WEB COPY



CMA.No.624 of 2023

R.HEMALATHA, J

mtl

C.M.A. No.624 of 2023

25.10.2024