



Civil Miscellaneous Appeal Nos.1746 & 1747 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal Nos.1746 & 1747 of 2024

S.Yuvaraj
S/o.Selvaraj

... Appellant in C.M.A.No.1746/24

S.Kirubakaran
S/o.Selvaraj

... Appellant in C.M.A.No.1747/24

Vs.

1.M/s.Kongunadu Kakkum
Karangal Trust,
No.662/142-G10, Suba Building,
Salem Road, Namakkal District.

2.M/s.The New India Assurance
Company Limited,
No.29, Ram Complex,
2nd Floor, Paramathi Road,
Namakkal Town.

3.B.Gowtham
S/o.Balakrishnan

... Respondents in both appeals



Civil Miscellaneous Appeal Nos.1746 & 1747 of 2024

Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 10.03.2020 made in M.C.O.P.Nos.1455 & 1462 of 2017 on the file of Motor Accident Claims Tribunal, Additional District Court (FAC), Namakkal.

For Appellants : Mr.S.Sankar
[in both appeals] for Mr.C.Thangaraju

For Respondents : Ms.A.Salomi [R2]
[in both appeals]

COMMON JUDGMENT

These appeals arise out of a common award passed by the Motor Accident Claims Tribunal, Additional District Court (FAC), Namakkal, in M.C.O.P.Nos.1455 & 1462 of 2017, dated 10.03.2020. Hence, both these appeals are taken up together, heard and disposed of through this common judgment.

2. The claimants filed the claim petition on the ground that on 27.08.2017, the claimant in M.C.O.P.No.1462 of 2017 was riding a two wheeler and the claimant in M.C.O.P.No.1455 of 2017 was the pillion rider and they were travelling at Vazhavandhi - Vallipuram main road and



at about 03.00 p.m., the offending vehicle, a Maruthi Omni Car, which was owned by first respondent, was driven in a rash and negligent manner and it hit the two wheeler as a result of which, both the rider and the pillion rider were thrown out of the vehicle. The claimant in M.C.O.P.No.1455 of 2017 sustained Type I open fracture dislocation of left ankle with closed both bone MID shaft left leg fracture with internal degloving injury of left leg. He underwent treatment as an inpatient in three phases for a total period of 41 days and he also underwent a surgery.

3. Insofar the claimant in M.C.O.P.No.1462 of 2017 is concerned, he sustained injury over his nose, left cheek and left eyebrow and laceration had to be sutured over left Ala of the nose. It is under these circumstances, the claim petitions came to be filed before the Tribunal seeking compensation.

4. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a 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.

Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.3,59,855/- [M.C.O.P.No.1455 of 2017] under various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of income	2,26,920/-
2.	25% disability	75,000/-
3.	Medical bills	42,935/-
4.	Pain and suffering	5,000/-
5.	Nutrition expenses	5,000/-
6.	Transport expenses	5,000/-
	Total	3,59,855/-
	Rounded off to	3,59,900/-

Insofar as M.C.O.P.No.1462 of 2017 is concerned, a total compensation of Rs.52,500/- was granted. The above compensation was directed to be paid along with interest at 7.5% p.a.

5. The appellants/claimants, not being satisfied with the quantum of compensation awarded by the Tribunal, have filed this appeal.



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6. Heard Mr.S.Sankar, learned counsel for appellants / claimants and Ms.A.Salomi, learned counsel for second respondent insurance company.

7. This Court carefully considered the submissions made by learned counsel on either side and the materials available on record.

8. This Court also carefully went through the award passed by the Tribunal.

9. Insofar as C.M.A.No.1746 of 2024 is concerned, the same has been filed against the award passed in M.C.O.P.No.1455 of 2017. As already stated above, the claimant underwent treatment as an inpatient for nearly 41 days in three phases and also underwent operation. The disability was assessed by the Medical Board at 25%. The Tribunal while fixing the compensation under the head 'disability', has adopted per percentage method and fixed a sum of Rs.3,000/- per percentage. Considering the fact that the accident had taken place in the year 2017 and taking note of the judgment of the Division Bench of this Court in



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C.M.A.No.3334 of 2021, dated 15.06.2022 [Future General India Insurance Company Limited v. Manivannan and others], this Court is inclined to fix a sum of Rs.7,000/- per percentage. Thus, the compensation under the head 'disability' is fixed at Rs.1,75,000/- [7000 x 25].

10. Considering the nature of injuries sustained by the claimant and the treatment undergone, this Court is inclined to enhance the compensation under the heads 'pain and suffering', 'extra nourishment' and 'transport expenses' to Rs.25,000/-, Rs.15,000/- and Rs.10,000/- respectively.

11. The Tribunal has not granted any compensation under the head 'attender charges' and hence, a sum of Rs.15,000/- is granted under this head.

12. The compensation awarded under other heads is justified and the same does not require the interference of this Court.



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13. For the foregoing reasons, the compensation awarded by the Tribunal is modified as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount awarded by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	Loss of income	2,26,920/-	2,26,920/-
2.	25% disability	75,000/-	1,75,000/-
3.	Medical bills	42,935/-	42,935/-
4.	Pain and suffering	5,000/-	25,000/-
5.	Nutrition expenses	5,000/-	15,000/-
6.	Transport expenses	5,000/-	10,000/-
7.	Attender charges	-	15,000/-
	Total	3,59,855/-	5,09,855/-
	Rounded off to	3,59,900/-	5,09,900/-

14. C.M.A.No.1747 of 2024 has been filed against the award passed in M.C.O.P.No.1462 of 2017. Considering the nature of injuries sustained by the claimant, the Tribunal has fixed a total sum of Rs.52,500/- as compensation. The said compensation is very reasonable and this Court does not find any ground to enhance the same.



In the result,

(i) C.M.A.No.1746 of 2024 is partly allowed. The compensation awarded by the Tribunal at Rs.3,59,900/- is enhanced to Rs.5,09,900/-. The second respondent insurance company is directed to deposit the compensation awarded by this Court, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of six (6) weeks from the date of receipt of this judgment. Insofar as the enhanced compensation is concerned, the appellant/claimant will not be entitled for interest for the period of delay of 482 days as was ordered by this Court in C.M.P.No.24501 of 2023 in C.M.A.Sr.No.124286 of 2023 dated 04.06.2024. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

(ii) C.M.A.No.1747 of 2024 is dismissed. The second respondent insurance company is directed to deposit the compensation awarded by the Tribunal, less the amount already deposited,



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together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of six (6) weeks from the date of receipt of this judgment. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

No costs.

23.07.2024

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

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To

The Motor Accident Claims Tribunal,
Additional District Court (FAC),
Namakkal.



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N.ANAND VENKATESH, J.

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