



C.M.A.No.3135 of 2024

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

**DATED : 04.12.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**C.M.A.No.3135 of 2024**

S.Poovalarselvan  
S/o.Sengani

... Appellant / Petitioner

Vs.

1.G.Sridharanae  
S/o.Gopalasamy

2. The Oriental Insurance Company Limited,  
Block-B, Second Floor,  
Valli Vilas Commercial Complex,  
189/2A, Bharathy Road,  
Cuddalore.

... Respondents / Respondents

**PRAYER :** Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 25.08.2022 made in M.A.C.T.O.P.No.1926 of 2017 on the file of the Motor



C.M.A.No.3135 of 2024

Accidents Claims Tribunal, Cuddalore (Special Sub Judge for LAOP Cases (FAC), Cuddalore).

For Appellant : Mr.F.Terry Chella Raja

For Respondents : Ms.R.Sreevidhya for R2

## J U D G M E N T

Aggrieved by the compensation awarded by the Tribunal in M.A.C.T.O.P.No.1926 of 2017, the appellant has come before this Court challenging the same by filing the present civil miscellaneous appeal.

2. It is the case of the claimant that on 05.01.2017 when the petitioner was riding his two wheeler bearing Registration No.PY-01-BD-6764, another two wheeler bearing Registration No.PY-01-AH-5454 belonging to the first respondent was driven by its rider in a rash and negligent manner and dashed against the claimant, in which, the claimant is alleged to have suffered injuries all over the body for which he was admitted in the hospital and due to the loss suffered on account of the accident, the



C.M.A.No.3135 of 2024

WEB COPY

claimant, claiming compensation for the injuries suffered, had filed the claim petition. The said claim was resisted by the Insurance Company / second respondent, who is the insurer of the first respondent's vehicle.

3. Before the Tribunal, on the side of the claimant, P.W.1 was examined and Exs.P1 to P8 were marked. The Insurance Company did not let in any evidence either orally or documentary. The Court document was marked as Ex.C1. The Tribunal, after analysing the oral and documentary evidence available on record, awarded a compensation of Rs.2,29,000/- and directed the second respondent / Insurance Company to pay the same to the appellant / claimant.

4. The learned counsel for the claimant submits that at the time of accident, the injured was aged about 26 years and was working as Site Engineer and earned about Rs.10,000/- as monthly income. However, the Tribunal fixed Rs.9,000/- as monthly income. Further, the learned counsel has submitted that when the doctor had clearly deposed about the injuries



C.M.A.No.3135 of 2024

and disability suffered by the claimant, the amount of Rs.5,000/- per percentage of disability awarded by the Tribunal is wholly inadequate. He further submit that the amount awarded under various heads also requires to be reconsidered and a higher compensation ought to have been awarded to the claimant

5. The first respondent remained ex-parte before the Tribunal.

6. Per contra, the learned counsel appearing for the second respondent / Insurance Company submitted that, the Tribunal taking into consideration all the relevant documents has rightly fixed the compensation, which does not require any interference. However, a sum of Rs.20,000/- awarded towards loss of amenities is not reasonable and hence, the same may be deleted. Further, insofar as the loss of income is concerned, the claimant did not produce any material to show that he has taken treatment for about seven months and hence, the compensation awarded under the head loss of income is to be reduced.



C.M.A.No.3135 of 2024

WEB COPY

7. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

8. The factum of the accident is not disputed by the parties and so also the liability. Therefore, this Court is not entering into the said aspect. The only grievance of the claimant is with regard to the quantum of compensation awarded.

9. Further, it is seen from the records that as per Ex.C.1, the claimant has suffered 16% partial permanent disability and the Tribunal has rightly taken the disability at 16%. However, Rs.5,000/- awarded per percentage is on the lower side and the same is enhanced to Rs.7,000/-. Thus, the compensation of Rs.80,000/- ( 16 X Rs.5,000/-) awarded towards disability is enhanced to Rs.1,12,000/- (16 X Rs.7,000/-). Further, it is seen that the Tribunal has awarded Rs.20,000/- towards loss of amenities. On perusal of



C.M.A.No.3135 of 2024

WEB COPY

the records, it is found that, the claimant has suffered only 16% partial permanent disability as per Ex.C.1 - disability certificate and Rs.1,20,000/- has been awarded under the said head. Hence, Rs.20,000/- awarded towards loss of amenities is not warranted and the same is deleted.

10. As far as quantum of compensation is concerned, it is the claim of the appellant that at the time of accident, the deceased was working as a Site Engineer and also earning Rs.10,000/- per month. Hence, this Court is inclined to fix a sum of Rs.10,000/- as monthly income of the claimant. However, insofar as the head loss of income is concerned, the claimant has not even produced any material to show that he would have suffered loss of income for a period of seven months. Hence, this Court finds that by taking the period of treatment underwent by the claimant as seven months, a sum of Rs.63,000/- awarded for loss of income for seven months, appears to be excessive. In the absence of any material to show that during the period of seven months, the injured was not able to earn any income, this Court is inclined to fix the loss of income for three months



C.M.A.No.3135 of 2024

WEB COPY

alone. Hence, by taking the monthly income of the claimant as Rs.10,000/-, the loss of income for three months works out to Rs.30,000/-, which would be the just and fair compensation for the loss of income during the treatment period of the claimant.

11. Considering the age, avocation and the nature of injuries sustained by the appellant, this Court finds that the compensation awarded under the heads attender charges and transportation are just and reasonable and does not require any interference. However, insofar as the compensation awarded towards pain and suffering and extra nourishment are concerned, this Court feels that a sum of Rs.30,000/- awarded under the head pain and suffering is meagre and the same is enhanced to Rs.40,000/-. Likewise, a sum of Rs.12,000/- awarded under the head extra nourishment is enhanced to Rs.20,000/-. Though the Tribunal has not awarded any compensation towards medical expenses, the fact remains that the petitioner was treated as in-patient from 05.01.2017 to 13.01.2017 and was issued discharged card which was marked as Ex.P4. Though no medical bill has been filed to



C.M.A.No.3135 of 2024

support the expenses incurred by the claimant, the fact remains that the claimant was under treatment for a period of 9 days and would have incurred some expenses to the hospital and thereafter, as out-patient on more than 10 occasions. Therefore, this Court is inclined to award a sum of Rs.15,000/- towards medical expenses.

12. In the above circumstances, the compensation awarded by the Tribunal under the below mentioned heads is modified as under:

| <i>S.No</i> | <i>Head of Compensation</i>                    | <i>Amount awarded by the Tribunal (Rs)</i> | <i>Amount awarded by this Court (Rs)</i> |
|-------------|------------------------------------------------|--------------------------------------------|------------------------------------------|
| 1           | Partial permanent disability (16% x Rs.7000/-) | Rs.80,000/-                                | <b>Rs.1,12,000/-</b>                     |
| 2           | Pain and sufferings                            | Rs.30,000/-                                | <b>Rs.40,000/-</b>                       |
| 3           | Loss of amenities                              | Rs.20,000/-                                | -                                        |
| 4           | Extra nourishment                              | Rs.12,000/-                                | <b>Rs.20,000/-</b>                       |
| 5           | Attender charges                               | Rs.12,000/-                                | Rs.12,000/-                              |
| 6           | Transportation                                 | Rs.12,000/-                                | Rs.12,000/-                              |
| 7           | Medical expenses                               | -                                          | <b>Rs.15,000/-</b>                       |



C.M.A.No.3135 of 2024

| <i><b>S.No</b></i> | <i><b>Head of Compensation</b></i>         | <i><b>Amount awarded by the Tribunal (Rs)</b></i> | <i><b>Amount awarded by this Court (Rs)</b></i> |
|--------------------|--------------------------------------------|---------------------------------------------------|-------------------------------------------------|
| 8                  | Temporary loss of income (3 x Rs.10,000/-) | Rs.63,000/-                                       | <b>Rs.30,000/-</b>                              |
| 9                  | Future medical expenses                    | -                                                 | -                                               |
|                    | <b>Total</b>                               | <b>Rs.2,29,000/-</b>                              | <b>Rs.2,41,000/-</b>                            |

13. In the result, this Civil Miscellaneous Appeal is allowed in part and the compensation awarded by the Tribunal at Rs.2,29,000/- is hereby enhanced to Rs.2,41,000/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. The second respondent / Insurance Company is directed to deposit the entire award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.1926 of 2017 on the file of the Motor Accidents Claims Tribunal, Cuddalore (Special Sub Judge for LAOP Cases (FAC), Cuddalore). On such deposit,



C.M.A.No.3135 of 2024

the appellant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn fixed by the Tribunal by making proper application before the Tribunal. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. No costs.

**04.12.2024**

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

ssb

To

1. The Motor Accidents Claims Tribunal, Cuddalore  
(Special Sub Judge for LAOP Cases (FAC), Cuddalore).
2. The Section Officer,  
V.R. Section,  
High Court, Chennai.



WEB COPY



C.M.A.No.3135 of 2024

**M.DHANDAPANI, J.**

ssb

**C.M.A.No.3135 of 2024**

**04.12.2024**