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CMA NO. 3324 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-03-2025

CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI

CMA NO. 3324 of 2024

T.Adithya
S/o. Thangaraj, NO.47/21 Gangaiyamman Kovil Street,
Chengalpattu Vallam, Kancheepuram(Chengalpattu) 603 002

Appellant(s)

Vs

Kannan.S
S/o. N.Sundaram, No.22, Krishnapuram, Nandivaram
Guduvancherri, Kancheepuram-603 301 and another

Respondent(s)

For Appellant(s):

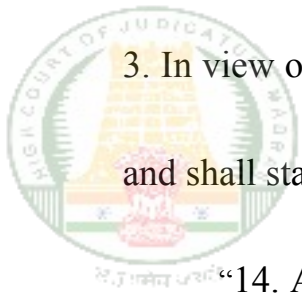
K.Balaji

For Respondent(s):

ORDER

Today, this matter is listed under the caption “For Being Mentioned” at the instance of the Registry.

2. It is brought to the notice of the Court that in the last but one line of paragraph No.14 of the judgment dated 19.12.2024, instead of Appellant it has been stated that the Tribunal has to produce the proof for payment of Court fee for the enhanced compensation. Hence, the same may be modified.



3. In view of the above, Paragraph No. 14 of the judgment dated 19.12.2024 is 1

and shall stand replaced with the following paragraph:

“14. Accordingly, the appeal is allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.5,20,900/-** to **Rs.19,98,500/-**. The 2nd respondent-Insurance Company is directed to deposit the above said amount awarded by this Court to the credit of M.C.T.O.P.No.404 of 2020 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six (6) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the said amount directly to the bank account of the appellant through RTGS within a period of two (2) weeks thereafter, upon production of necessary proof for payment of court fee for the enhanced compensation by the appellant. It is underscored that the appellant is not entitled to any interest for the default period, if any. No costs.”

4. All the other observations made in the earlier order dated 19.12.2024 shall remain intact.

5. Registry is directed to carry out the necessary correction as aforesaid in the order dated 19.12.2024 and issue fresh copy of the order to the learned counsel for the parties.

06-03-2025

RAP



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2024

CORAM:

THE HON'BLE MR.JUSTICE **M.DHANDAPANI**

C.M.A.No.3324 of 2024

T.Adhithya ...Appellant

Vs.

1. Kannan.S
2. Shriram General Insurance Company Limited,
No.4, 2nd Floor, Mookabiga Complex,
Lady Desika Road, Mylapore,
Chennai – 600 004. ...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act,
against the order made in M.C.O.P.No.404 of 2020 dated 22.11.2023, on the file of the Motor
Accident Claims Tribunal (In the III Court of Small Causes, Chennai).

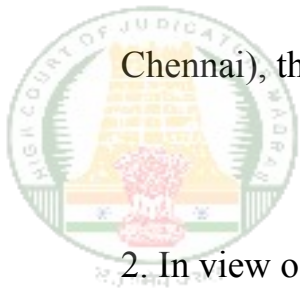
For Appellant : Mr.K.Balaji

For Respondents : Mr.C.Bhuvaneswari for R2

Notice dispensed with for R1

JUDGMENT

Challenging the judgment and decree dated 22.11.2023 passed in M.C.O.P.No.404 of 2020
on the file of the Motor Accident Claims Tribunal (In the III Court of Small Causes,



Chennai), the claimant has come up with this appeal.



2. In view of the judgment being passed, notice to the first respondent is dispensed with.

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3. The case of the appellant is that, on 02.09.2019 at about 6.00 pm, when the appellant was travelling as a pillion rider in a motorcycle bearing Regn.No.TN-19-AK-5260, at that time the driver of the car bearing Regn.No.TN-11-Q-5807 belonging to the first respondent had driven the said car in a rash and negligent manner dashed the vehicle in which the appellant was travelling, as a result of which, the appellant also fell down and sustained injuries. Thereby, the appellant filed a claim petition claiming a compensation of Rs.12,00,000/-. After contest, the tribunal, vide impugned judgment awarded a compensation of Rs.5,20,900/-. Aggrieved with the said order, the claimant has come up with this appeal seeking enhancement of the compensation fixed.

4. Learned counsel for the appellant / claimant submitted that, the above said accident happened solely due to the rash and negligent driving of the driver of the first respondent's car and at the time of accident, the appellant was only aged about 19 years and due to the injuries sustained by the appellant, he sustained 65% permanent disability and the same is evident from the Disability certificate issued by the Medical Board. Moreso, the appellant is a



Mechanic by profession and due to the said accident, the appellant was not ab

his work as a Mechanic. While so, without considering any of the above said facts, the

tribunal, instead of adopting multiplier method had awarded a compensation of Rs.5,20,900 /-

under the head Disability by adopting percentage method, which is not sustainable. Further,

the compensation awarded by the tribunal under other heads are also on the lower side and

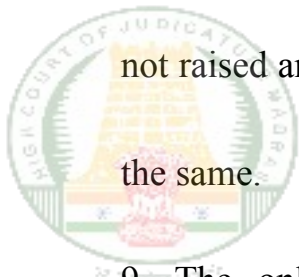
the same has to necessarily be enhanced.

5. Per contra, the learned counsel appearing for the 2nd respondent / insurance company submitted that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prayed for dismissal of the appeal.

6. Heard the learned counsel for the appellant as well as the 2nd respondent and perused the materials available on record.

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

8. The factum and manner of the accident is not disputed by the parties and the parties have



not raised any issue on the aspect of negligence and therefore, this Court is not into the same.

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9. The only grievance of the appellant/claimant is with regard to the quantum of compensation awarded. It is claimed by the appellant that the appellant sustained functional disability at the rate of 65%, however, the tribunal failed to adopt multiplier method for awarding compensation and had adopted percentage method, which is wholly erroneous.

10. A perusal of the impugned award and particularly the disability certificate reveals that, the appellant was aged about 19 years at the time of accident and the nature of injuries sustained by him is of grievous in nature, and that the extent of the disability sustained by the appellant would really hamper the appellant from discharging his work. Hence, this Court holds that the disability sustained by the appellant is of functional in nature and fixes the disability sustained by the appellant at the rate of 40%.

11. It has been the view of the courts that even a housewife is entitled to monthly income to be fixed for the purpose of qualifying their work for the purpose of quantifying the amount receivable by them. Applying the ratio laid down by the Hon'ble Supreme Court in the case of *Syed Sadiq Vs. United India Insurance Company reported in 2014 (1) TANMAC 459*,

<https://www.hcj.madras.gov.in/> fixing a monthly income of Rs.15,000/- and adding future prospects at 40%, as has been held



by the Constitution Bench in the case of *National Insurance Company Limited*

sethi and others reported in 2017 (16) Supreme Court Cases 680, the total income per

month is quantified at Rs.21,000/-. The appellant being aged about 19 years, as evidenced

from the records, adopting the multiplier of 18 as fixed by the Apex Court in the case of

Sarla Verma and Ors. v. DTC & Ors. reported in (2009) 6 SCC 121, the loss of income to

the family is arrived at Rs.21,000/- * 12 * 18 * 40% = Rs.18,14,400/-.

12. A sum of Rs.31,800/- has been granted to the appellant under the head of "attender charges", which is not sustainable and the same has to be reduced to a sum of Rs.20,000/-.

Insofar as the compensation awarded under the other heads are concerned, this Court is of the view that the compensation are just and reasonable and the same does not warrant any interference of this Court.

13. In view of the above, the compensation awarded by the Tribunal is modified as under :-

Heads	Awarded by the Tribunal (in Rs.)	Awarded by this Court (in Rs.)
Disability	3,25,000/-	18,14,400/- (enhanced)
Pain and sufferings	50,000/-	50,000/-
Transportation	10,000/-	10,000/-



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Heads	Awarded by the Tribunal (in Rs.)	Awarded by this Court (in Rs.)
Medical Expenses	17,101/-	17,101/-
Extra Nourishment	10,000/-	10,000/-
Attender Charges	31,800/-	20,000/- (reduced)
Damages to Clothes	1,000/-	1,000/-
Loss of amenities	20,000/-	20,000/-
Loss of earnings	56,000/-	56,000/-
Total	5,20,901/-	19,98,501/-
Rounded off	5,20,900/-	19,98,500/-

14. Accordingly, the appeal is allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.5,20,900/- to Rs.19,98,500/-**. The 2nd respondent-Insurance Company is directed to deposit the above said amount awarded by this Court to the credit of M.C.T.O.P.No.404 of 2020 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six (6) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is



directed to transfer the said amount directly to the bank account of the appellant

RTGS within a period of two (2) weeks thereafter, upon production of necessary proof for

payment of court fee for the enhanced compensation by the tribunal. It is underscored that the

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appellant is not entitled to any interest for the default period, if any. No costs.

19.12.2024

rap

NCC : Yes/No

Index : Yes/No

Speaking order : Yes/No

To:

1. Motor Accident Claims Tribunal (In the III Court of Small Causes, Chennai).

2. The Section Officer,

V.R.Section, High Court, Madras.



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M.DHANDAPANI, J.

rap

C.M.A.No.3324 of 2024

19.12.2024