



C.M.A.No.77 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2025

CORAM:

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

C.M.A.No.77 of 2025

K.Jagan

...Appellant

Vs.

1. G.K.Ramesh

2. United India Insurance Co.Ltd.,
Silingi Building, IV Floor,
No.134, Greams Road,
Chennai – 600 006.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, against the fair and decretal order made in MCOP.No.2366 of 2018 dated 10.07.2024 on the file of the Motor Accidents Claims Tribunal (Special Sub Court No.1, Motor Accidents Claims Petitions), Small Causes Court at, Chennai.

For Appellant : Mr.Amar Dineshbhai Pandiya

For Respondents : Mr.J.Chandran for R2



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JUDGMENT

This Civil Miscellaneous appeal has been filed challenging the award and decree passed in MCOP.No.2366 of 2018 dated 10.07.2024 on the file of the Motor Accidents Claims Tribunal (Special Sub Court No.1, Motor Accidents Claims Petitions), Small Causes Court at, Chennai.

2. Mr.J.Chandran, learned counsel takes notice on behalf of the 2nd respondent.

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

4. The case of the appellant / claimant is that, on 23.11.2016 at about 08.30 hours, when the appellant was riding a two wheeler bearing Regn.No.TN 04 AE 9037, at that time a motorcycle bearing Regn.No.TN 03 P 9140 driven by the first respondent came in a rash and negligent manner and dashed the vehicle in which the appellant was travelling, due to which,



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the appellant sustained grievous injuries. Thereby, the appellant filed a claim petition claiming a compensation of Rs.15,00,000/-.

5. Before the tribunal, the claimant examined himself as P.W.1 and marked exhibits P.1 to P.11 and on the side of respondents, neither any witnesses were examined nor any documents were marked. After trial, the Tribunal, on appreciation of oral and documentary evidence, though came to a conclusion that the accident had taken place solely due to the rash and negligent driving of the 1st respondent, however, awarded a meagre compensation of Rs.1,52,500/-. Aggrieved with the said order, the appellant has come up with this appeal.

6. Learned counsel for the appellant submitted that, the above said accident happened solely due to the rash and negligent driving on the part of the 1st respondent, for which, the FIR came to registered as against the 1st respondent and due to the above said accident, the appellant sustained grievous head injury and lacerated wounds all over his body. Further, at the time of accident, the appellant was aged about 43 years and was earning a



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sum of Rs.15,000/- and due to the injuries sustained by him in the above said accident, the appellant is unable to continue his avocation which he was doing earlier and the appellant is struggling financially and is unable to meet out his day to day needs. However, the tribunal had miserably failed to consider the same and awarded a meagre compensation of Rs.1,52,500/- which is *per se* unsustainable. Learned counsel further submitted that, the compensation awarded under the other heads are also on the lower side. Accordingly, he prayed for appropriate orders.

7. Per contra, the learned counsel appearing on behalf of the second 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 prays for dismissal of the appeal.

8. On the above said contentions, heard learned counsel appearing on behalf of the petitioner and the second respondent and perused the material documents placed on record.



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9. The factum and manner of the accident is not in dispute and therefore, this Court is not entering into the said aspect. Though it is claimed by the learned counsel for the appellant that the compensation of Rs.50,000/- awarded by the Tribunal under the head disability by adopting percentage method is on the lower side, however, this Court perused the disability certificate Ex.C1, issued by the Medical Board, wherein it is clear that the extent of disability sustained by the claimant in the abovesaid accident would not really hamper the claimant from doing his day to day work and thereby the injuries suffered by the appellant cannot be held to be functional in nature and thereby the Tribunal adopted percentage method and this Court does not find any fault with the procedure adopted by the Tribunal to arrive at compensation under the said head.

10. Moreso, the accident is of the year 2016, as per the existing law at the relevant point of time, per percentage of disability was fixed at Rs.5,000/, however, considering the age of the claimant and the nature of the injuries sustained by the claimant, the Tribunal has rightly fixed a sum



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of Rs.5,000/- per percentage of disability which is just and reasonable and the same need not be interfered with.

11. Insofar as the compensation under the other heads are concerned, the Tribunal has taken into consideration the nature of injuries suffered by him and after proper appreciation of the material documents placed before it, has awarded the compensation, which cannot be said to be erroneous or arbitrary and, therefore, this Court confirms the award passed by the tribunal in favour of the appellant.

12. For the reasons aforesaid, this Appeal stands dismissed, confirming the award passed by the tribunal in MCOP.No.2366 of 2018 dated 10.07.2024 and the 2nd respondent-insurance company is directed to deposit the compensation of Rs.1,52,500/- awarded by the tribunal to the credit of MCOP.No. 2366 of 2018 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 weeks (6) from the date of receipt of a copy of this



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judgment, if not already deposited. On such deposit being made, the

Tribunal is directed to transfer the said amount to the appellant directly to

his bank account through RTGS within a period of two (2) weeks thereafter.

There shall be no order as to costs in this appeal.

22.01.2025

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NCC : Yes/No

Index : Yes/No

Speaking order : Yes/No

To:

Motor Accidents Claims Tribunal (Special Sub Court No.1, Motor Accidents Claims Petitions), Small Causes Court at, Chennai.



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M.DHANDAPANI, J.

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