



C.M.A.No.1574 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 23.07.2025

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THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.M.A.No.1574 of 2025

M.Boominathan

... Appellant

..Vs..

1.M/s.K.Sivasubramanian

2.The Manager

ICICI Lombard General Insurance Co.Ltd.,

No.84 85, Arihand Plaza, 1st Floor,

Wall Tax Road, Chennai 600003

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor

Vehicles Act, 1988, as against the judgment and decree dated 23.08.2024

made in MCOP No.7374 of 2016 on the file of the Motor Accidents Claims

Tribunal/II Judge, Court of Small Causes, Chennai.

For Appellant

: Mr.S.Suriyaprakash

For Respondents

: Mr.R.Mohan for R1

Mr.P.Suresh Srinivasan for R2

JUDGMENT

The claimant not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP.No.7374 of 2016, dated 23.08.2024 has preferred this appeal seeking for enhancement of compensation.

2.The case of the claimant is that the petitioner was riding his two wheeler bearing Regn.No.TN-11-D7822 proceeding from Gowrivakkam to



Raja Kilpakkam. While nearing Kamarajapuram Mosque Colony Junction, the 1st respondent's motor cycle bearing Regn. No.TN-11-C-2617, which came in a rash and negligent manner, hit on the petitioner's motorcycle and caused an accident, due to which, the claimant sustained grievous injuries, for which he underwent treatment in the hospital. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3. 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 rider of the 1st respondent. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.94,465/- under various heads as follows:

<i>Heads</i>	<i>Award Amount(Rs.)</i>
Medical Expenses	64,465/-
Compensation for Grievous Injury	30,000/-
Total	94,465/-

4. The above compensation was directed to be paid with interest at the rate of 7.5% per annum.



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5.The claimant not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal before this Court seeking for enhancement of compensation by raising the following grounds:-

(a) The Tribunal erred in not awarding any amount for disability since the Medical Board of Stanley Government Hospital has assessed only 0% disability. Hence, the court below ought to have awarded compensation towards disability.

(b) The Tribunal below failed to consider that the appellant sustained grievous injuries in left clavicle and undergone surgery and unable to lift even a small object and he is suffering in doing his daily work. Hence, the court below ought to have awarded compensation towards loss of earning power.

(c) The appellant took two months treatment after the surgery of ORIF with LCP done under RA on 25.07.2016. Hence, Tribunal ought to have taken atleast four months while calculating the loss of income. Hence the court below erred in not awarding any amount towards loss of income.

(d) The Tribunal erred in not considering the nature of injury, period of treatment, age and avocation of the appellant in correct prospects and not awarding any amount towards transportation, damages to clothes, extra nourishment, loss of



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amenities, pain and suffering, attender charges, mental agony, etc.,

(e) The Tribunal has erred in awarding less compensation towards medical expenses of Rs.64,465/- since the appellant has taken treatment as in-patient and also undergone a surgery in a private hospital.

6. The learned counsel for the 2nd respondent submitted that except medical bills, they have not produced any other records to show the disability of the claimant. Therefore, the Tribunal has rightly fixed and award of compensation. As per the discharge summary, he was admitted for four days and undergone surgery for the left clavicle fracture sustained by him. He has not produced the disability certificate given by the medical board.

7. Before the Tribunal, the Appellant/claimant has filed nine documents which were marked as Ex.P1 to Ex.P9 and examined one witness as PW1. On the side of the 2nd respondent/Insurance Company, one document was marked as Ex.R1 and also marked one court document as Ex.C1. However, no witness was examined on the side of the respondents before the Tribunal.



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8. Insofar as the assessment of disability by the Tribunal is concerned, the Tribunal has not award any amount towards disability. This court after considering the grievous injury sustained by him and surgery undergone by him, this court is inclined to fix 10% towards partial permanent disability and fix Rs.5000/- per each percentage. (Rs.5000X10%=Rs.50,000)

9. Insofar as the compensation awarded towards loss of income is concerned, the Tribunal has not awarded any compensation. Since the accident occurred in the year 2016, and even after 6 months of the accident, the appellant is unable to go for a job, this court fixed the monthly income of the appellant/claimant as Rs.12000/- and thereby, calculated the loss of earning at Rs.12000/- x 6 months = Rs.72,000/-.

10. The Tribunal has not awarded any compensation towards pain and sufferings, attender charges and transportation.

11. Perusal of records would reveal that the appellant/claimant



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sustained fracture in left clavicle which is grievous in nature. The appellant had undergone surgery of ORIF with LCP on 25.07.2016 and also took treatment for two months due to which he had suffered pain and sufferings. Hence, this court is inclined to award a sum of Rs.20,000/- under the head of pain and sufferings.

12. It is mainly contended by the learned counsel for the appellant/claimant that after the accident, the appellant/claimant had sustained permanent disability and he could not able to do his work as normal. He needs an attender for his daily work. Hence, the attender charges is fixed at Rs.5000/- Based on the medical bills, this court is inclined to fix Rs.64,000/- towards medical bills. Even after the surgery, the appellant was taking treatment for few months and hence this court is inclined to award a sum of Rs.10,000/- towards transportation.

13.In the light of the above discussion, the compensation awarded by the Tribunal is modified as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Partial Permanent disability	50,000



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S.No	Compensation awarded under the head	Amount (in Rs.)
	(10% x Rs.5000)	
2.	Medical Bills	64,000
3.	Pain and Suffering	20,000
4.	Transportation expenses	10,000
5.	Loss of income(12000X6)	72,000
6.	Attender Charges	5,000
	Total	2,21,000

14.The compensation awarded by the Tribunal at Rs.94,465/- is enhanced to Rs.2,21,000/-. The second respondent/Insurance Company is directed to deposit the enhanced compensation of Rs.2,21,000/-, 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 four weeks from the date of receipt of copy of this judgment. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

T.V.THAMILSELVI.,J

gv



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WEB COPY 15.In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

23.07.2025

Index: Yes/No
Internet: Yes/No
Speaking/Non-speaking Order

To

1. The learned II Judge,
Court of Small Causes, Chennai.
- 2.The Section Officer
V.R.Section, High Court of Madras.

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