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CMA.No.114 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2025

CORAM:

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

CMA.No.114 of 2025

R.Thiyagarajan

...Appellant

Vs.

1. Gunashree
2. National Insurance Company Ltd.,
Motor Third Party Claims Office,
No.66, Lyola Towers, Greams Road,
Chennai – 600 006.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, as against the award dated 30.01.2024 made in MCOP.No.1201 of 2019 on the file of the Motor Accidents Claims Tribunal, III Judge, Small Causes Court, Chennai.

For Appellant : M/s.P.T.Saleem Fathima
for M/s.M.S.Elangovan Law Associates

For Respondents : Mr.J.Chandran, for R2
: Notice Dispensed with, for R1



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JUDGEMENT

Challenging the judgment and decree dated 30.01.2024 made in MCOP.No.1201 of 2019 on the file of the Motor Accidents Claims Tribunal, III Judge, Small Causes Court, Chennai, the claimant is before this Court.

2. Mr.J.Chandran, learned counsel takes notice on behalf of the 2nd respondent. In view of the consent expressed by the learned counsel on either side, this appeal is taken up for final disposal at the admission stage itself.

3. Since the 1st respondent remained exparte before the trial court, notice to the 1st respondent is dispensed with.

4. It is the case of the appellant/claimant that, on 06-01-2019 at about 22:10 hours, when he was proceeding in Konnur High Road in a motorcycle bearing Regn.No.TN-01-AS-3019, from west to east direction and while proceeding near the junction of Railway Quarters Road, as the driver of the car bearing Regn.No.TN-05-AX-6363 owned by the 1st respondent insured with



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the 2nd respondent which was proceeding ahead of the appellant, drove the same in a very high speed and in a rash and negligent manner and suddenly took a left turn to enter the Railway Quarters without any indication and dashed against the above said motorcycle, due to which the appellant sustained multiple fractures and injuries and got admitted in the hospital. Thereby, the appellant filed a claim petition seeking compensation of Rs.16,00,000/-. Before the tribunal, the claimant examined himself as P.W.1 and marked exhibits P.1 to P.13 and on the side of respondents no documents were marked and no witness was examined and the Disability Certificate was marked as Court document Ex.C.1. After trial, the Tribunal, on appreciation of oral and documentary evidence, though came to a conclusion that the accident had taken place due to the rash and negligent driving on the part of the driver of the 1st respondent, however, awarded a meagre compensation of Rs.2,60,600/-. Challenging the same, the appellant has filed the present appeal.

5. Learned counsel appearing for the appellant submitted that, the above said accident occurred solely due to the rash and negligent driving on the part



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of the driver of the 1st respondent vehicle, due to which, the appellant sustained multiple fracture injuries all over his body and severe bleeding injuries and lacerated wounds all over his body and the medical board also assessed a permanent disability of 18%. However, the tribunal had taken only a sum of Rs.5,000/- per percentage of disability and awarded a meagre compensation under the head Disability and the compensation awarded under other heads are also on lower side and the same has to necessarily be enhanced. Accordingly, he prayed for appropriate orders.

6. 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.

7. Heard 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.

Therefore, this Court is not entering into the said aspect. The major grievance of the appellant/claimant is with regard to the quantum of compensation awarded by the Tribunal. It is claimed by the appellant that though the accident is of the year 2019, however, the Tribunal had taken a sum of Rs.5,000/- per percentage of disability. In this regard, this Court perused Ex.C.1, which is the disability certificate issued by the Medical Board and the same reveals that the appellant suffered disability of 18% and by erroneously adopting a sum of Rs.5,000/- per percentage of disability, the tribunal awarded a sum of Rs.90,000/-. However, as per the existing law at the relevant point of time, the Tribunal ought to have fixed a sum of Rs.8,000/- per percentage of disability. Hence, the amount under the head Disability stands enhanced to a sum of Rs.1,44,000 /- ($18\% \times \text{Rs.}8,000/- = \text{Rs.}1,44,000/-$).

9. Insofar as the compensation awarded under other heads are concerned, the tribunal had awarded a sum of Rs.30,000/-, Rs.4,000/-, Rs.10,000/- and Rs.2,100/- under the heads Pain and suffering, Transportation,



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Extra nourishment and Attender charges respectively, which are on the lower side and thereby, this Court is inclined to enhance the same to Rs.60,000/-, Rs.10,000/-, Rs.25,000/- and Rs.15,000/- respectively.

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

Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
Disability	90,000/-	1,44,000/-
Pain and sufferings	30,000/-	60,000/-
Transportation	4,000/-	10,000/-
Medical expenses	1,23,473/-	1,23,473/-
Extra Nourishment	10,000/-	25,000/-
Attender charges	2,100/-	15,000/-
Damages to clothes	1,000/-	1,000/-
Total	2,60,573/-	3,78,473/-
Rounded off	2,60,600/-	3,78,500/-

11. Accordingly, the appeal is allowed in part and the impugned award of the Tribunal is modified by enhancing the compensation amount from **Rs.2,60,600/- to Rs.3,78,500/-**. The 2nd respondent/Insurance Company is



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directed to deposit the said amount to the credit of MCOP.No.1201 of 2019 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 four (4) 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 proof with regard to payment of Court fee on 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.

24.01.2025

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Index : Yes / No
Speaking Order : Yes / No
Neutral Citation Case : Yes / No

To

The Motor Accidents Claims Tribunal,
III Judge, Small Causes Court, Chennai.

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M.DHANDAPANI, J.

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