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CMA No. 70 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-07-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 70 of 2024

K.Ramesh

Appellant

Vs

1. K.Elumalai

2.Shriram General Insurance Co. Ltd.

Plot NO.5, 1st Floor, Ramachandra

Street, Saravana Nagar,

Chennai-600096

Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicle Act, praying to enhance the amount awarded in MCOP No.7226/2016 dt. 13.07.2023 on the file of Motor Accident Claims Tribunal, (III Small Causes Court), Chennai.

For Appellant(s): Mr.K.Varadha Kamaraj

For Respondent(s): Mr.S.Dhakshnamoorthy For R2
R-1 Refused



JUDGMENT

WEB COPY The appellant/petitioner not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.7226 of 2016, dated 13.07.2023 has preferred this appeal seeking for enhancement of compensation.

2.The case of the petitioner is that on 13.08.2016 at about 03.00 hours, when the petitioner was travelling as an occupant in a car bearing Regn. No.TN-21 AT-0707 from Chennai to Devakottai along Villupuram Bypass road at Janakipuram, at that time, the driver of a lorry bearing Regn. No. TN-31-AC-6609 drove it in a rash and negligent manner on the opposite side and suddenly came wrong side and turned on right side in order to go to Villupuram town, dashed on him and caused an accident. Due to which, the petitioner sustained grievous injuries, for which he underwent treatment in the hospital. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation of Rs.30,00,000/-.

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

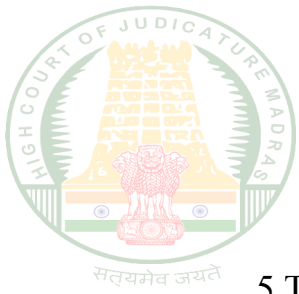


accident had taken place only due to the rash and negligent driving on the part of the rider of 1st respondent. Having come to such a conclusion, the Tribunal

fixed the total compensation payable at Rs.9,41,900/- under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Disability	2,35,000
2.	Pain and sufferings	50,000
3.	Transportation	5,000
4.	Medical expenses	5,63,039
5.	Extra nourishment	10,000
6.	Attender charges	7,800
7.	Damages o cloths	1,000
8.	Loss of amenities	10,000
9.	Loss of earnings	60,000
	Total	9,41,839
	Rounded off	9,41,900

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 appellant 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.

6. The learned counsel for appellant would submit that the appellant had suffered with permanent disability and lost his left eye sight completely, but it was not considered by the tribunal and erroneously fixed percentage method instead of applying multiplier. Hence, he prayed to enhance the compensation.

7. The learned counsel for 2nd respondent would submit that though the appellant had stated that he was suffered with permanent disability, he has not established the same by way of documentary evidence. He would also submit that there is no documentary evidence produced to establish the fact that subsequent to the accident, his income was reduced. Hence the tribunal has rightly awarded compensation, which needs no interference of this court.

8. Heard and considered rival submissions made by both learned counsel for appellant as well as 2nd respondent and perused materials available on record.



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9. Considering both side submissions and on seeing multiple injuries through the disability certificate issued by medical board, the fact reveals that the appellant has lost his left eye vision completely. On further perusal of Ex.P4, Ex.P5 and Ex.P6, the appellant has sustained multiple injuries, which is extracted hereunder:-

“TRAUMATIC HEAD INJURY, BLUNT INJURY ABDOMEN, FRACTURE POSTERIOR WALL OF ACETABULUM LEFT SIDE, LEFT CORNEAL TEAR WITH SEVERE FACIAL SOFT TISSUE INJURY, WITH LEFT UPPER EYE LID TISSUE, LOSS AND S/(CONRNEAL TEAR REPAIR TRAUMATIC CATARACT, IRIDODIALYSIS, HAEMORRAHIC CHOROIDAL DETACHEMENT, TOTAL RD WITH INCARCERATION AND LEFT UPPER LID STATUD POST EXTENSIVE INJURY AND REPAIR ELSEWHERE, LAGPHTHALOS; EXTENSIVE SCARRING LEFT EYE STATUS POST GLOBE INJURY AND REPAIR”

Considering that the medical board had assessed his disability as permanent disability of 47%, but the tribunal had fixed the compensation under percentage method instead of applying multiplier. By way of reply, the learned counsel for



2nd respondent raised objections stating that there is no permanent disability sustained by the appellant and there is variation in the details of quantum of salary submitted by him.

10. Admittedly, due to the accident happened on 13.08.2016, the appellant was sustained injury on the left upper eye lid tissue lost and he took treatment in Sankara Nethralaya Hospital, Chennai from 16.09.2016 to 18.09.2016 and a surgery was also conducted on 17.09.2016, however, he had lost his left eye sight completely. To prove the same, he had filed discharge summary issued by the said hospital marked as Ex.P4 and the continuous treatment records marked as Ex.P5. But the tribunal had fixed only percentage method instead of applying multiplier. On perusal of the same, the fact reveals that though he had undergone surgery, as per medical records he had lost his left eyesight completely. Therefore, this court is inclined to fix the disability as 25% of permanent disability and as per the judgment in *Sarla Verma & Others v. Delhi Transport Corporation & Another*, (2009) 6 SCC 121, this Court is inclined to fix the appropriate multiplier as 14.



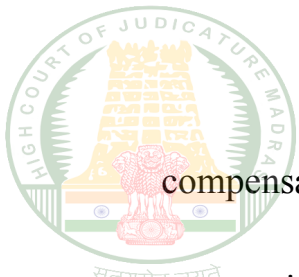
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11. Furthermore, considering the gravity of injuries sustained by the appellant as well as he had lost his left eye vision completely and as per the decision of the Hon'ble Supreme Court in *National Insurance Co. Ltd. v. Pranay Sethi and Others*, reported in 2017 (2) TN MAC 601, 10% is to be added towards future prospects.

13. On further perusal of medical records, the fact reveals that three surgeries was conducted and the appellant took treatment as inpatient in various hospitals, thereby he had incurred huge travelling expenses. Hence, this Court is inclined to enhance the transportation expenses from Rs.5000/- to Rs.10,000/-.

14. As he had suffered with permanent disability of 47% and lost his eye sight completely, he was in need of more nourishment. Hence, this Court is inclined to enhance the sum awarded towards extra nourishment from Rs.10,000/- to Rs.15,000/-.

15. Considering the nature of injury and the period of treatment, this Court is inclined to enhance the sum awarded towards loss of amenities from Rs.10,000/- to Rs.20,000/-. As the disability of appellant was refixed, the compensation under the head of loss of earnings would not arise. The



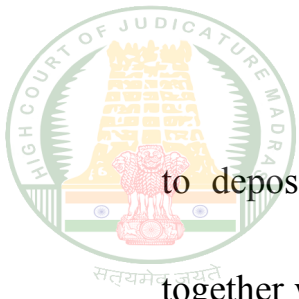
compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.

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16. 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 awarded by the tribunal (in Rs.)	Amount (in Rs.)	Amount confirmed or granted or enhanced
1.	Disability Rs.20,000/- (add 10% future prospects) $=20000 + 2000 = 22000$ $22000 \times 12 \times 14$ (multiplier) $\times 25\% = \text{Rs.}9,24,000/-$	2,35,000	9,24,000	enhanced
2.	Pain and sufferings	50,000	50,000	confirmed
3.	Transportation	5,000	10,000	enhanced
4.	Medical expenses	5,63,039	5,63,039	confirmed
5.	Extra nourishment	10,000	15,000	enhanced
6.	Attender charges	7,800	7,800	confirmed
7.	Damages to cloths	1,000	1,000	confirmed
8.	Loss of amenities	10,000	20,000	enhanced
	Total	9,41,839	15,90,839	
	Rounded off to	9,41,900	15,90,840	enhanced

17. The compensation awarded by the tribunal at Rs.9,41,900/- is enhanced to Rs.15,90,840/-. The 2nd respondent insurance company is directed



to deposit the enhanced compensation, 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 eight weeks from the date of receipt of copy of this judgment. On such deposit, the appellant is permitted to withdraw the enhanced award amount now determined by this court along with interest and costs, less the amount if any, already withdrawn. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

18. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

24-07-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Motor Accident Claims Tribunal, III Judge, Court of Small Causes, Chennai.
2. Section Officer, VR Section, Madras High Court.



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T.V.THAMILSELVI J.

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