



CMA.No.867 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :25.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.867 of 2025 and
C.M.P.No.7144 of 2025

1. Shriram General Insurance Co Ltd
Having office at No.3, 1st Floor, NMS Tower,
Indira Nagar, Palladam Main Road, Tiruppur - 642 005

2. Shriram General Insurance Co Ltd
Having office at No.294/A,
VCTC Main Road, Sathy Road, Erode

... Appellants

Vs.

1.J.Ashok Kumar
2.Boopathiyuvaraj
3. Gayathri

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to set aside the order dated 01-04-2024 made in MCOP.No.40/2021, on the file of the Special District Court, Erode.

For Appellants : Mr.S.Dhakshnamoorthy
For Respondent : Mr.V.K.Vengadesh Durai Raja
for M/s.Deepan Uday

JUDGMENT



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The Civil Miscellaneous Appeal is filed challenging the award passed by the Motor Accident Claims Tribunal in MCOP.No.40 of 2021.

2. It is the case of the 1st respondent/ claimant that he suffered injury in a road accident that had taken place on 20.09.2020. It is stated in the claim petition that on the fateful day, when the 1st respondent/ claimant was riding his bike bearing registration No.TN 43 F 6645 from Tiruppur Kovil Vali to Muthanampalayam Main road from South to North direction, the vehicle bearing registration No.TN 42 AE 5798 belonged to the third respondent, insured with the appellants, was driven by second respondent in a rash and negligent manner and dashed against the two-wheeler of the claimant. Due to the accident, the claimant suffered crush injury on the right foot apart from fracture in the right ankle and injuries all over the body. The claim petition was filed seeking compensation for the injuries suffered on the ground that the accident had occurred only due to the negligent driving of the 2nd respondent



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3. The respondents 2 and 3, driver and owner of the offending vehicle, remained ex-parte before the Tribunal and the claim petition was contested only by the insurer of the offending two-wheeler.

4. It was averred by the appellants in their counter that the accident had occurred only due to the rash and negligent driving of the deceased and hence, insurer was not liable to pay any compensation.

5. The Tribunal, based on the evidence available on record, came to the conclusion that the accident had occurred only due to the rash and negligent driving of the vehicle insured with the appellants by its driver/ 2nd Respondent herein. The amount payable to the claimant was quantified at Rs.23,46,878/-. Aggrieved by the said award, the insurer of the offending vehicle has come before this court by way of this appeal.

6. The learned counsel for the Appellants submitted that the Medical Board issued Disability Certificate fixing disability at 35% . The Tribunal erroneously enhanced the same to 75% functional disability and adopted multiplier method.



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7. The learned counsel for the 1st respondent/claimant submitted that the claimant suffered partial amputation of his right foot and hence, his avocation as a driver has been affected. In these circumstances, according to him, the Tribunal was justified in fixing functional disability at 75% and adopting multiplier method.

8. Before the Tribunal, in order to prove negligence, the claimant was examined as PW1. He clearly deposed about the negligence on the part of the second respondent, driver of the offending vehicle, insured with the appellant. The evidence of PW1 is very well corroborated by the contents of FIR, marked as Exhibit P1 and the final report marked as Exhibit P8.

9. The Tribunal, based on the evidence of PW1, Ex.P1, FIR, Ex. P8 final report and Ex.P5, MVI report, came to the conclusion that accident had occurred only due to the negligence on the part of the driver of the vehicle insured with the appellant and the same requires no interference.

10. It is seen from Exhibit P6, Accident Register, Exhibit P7 Wound Certificate and Exhibit P10, Discharge Summary, the claimant



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suffered a crush injury on his right foot and his right foot was partially amputated. The Tribunal, in its award, clearly noted that the right foot of the claimant was partially amputated and due to the said fact, his right leg was disfigured and distorted. It was also stated that he has difficulty in balancing, walking, running, etc. The medical board which examined the claimant assessed disability at 35% and issued Exhibit C1, Disability Certificate. It was claimed by the first respondent in the claim petition that he was a driver by profession. He also entered the box and deposed that he was a driver by profession. Certainly, the partial amputation of the right foot will have adverse effect on the ability of the claimant to drive the vehicle. Therefore, the Tribunal was justified in fixing functional disability at 75% and adopting multiplier method for the purpose of calculation of compensation under the head disability.

11. The Tribunal fixed the notional income of the claimant at Rs. 10,000/- and the same is a conservative one. The claimant was satisfied with the same and has not questioned it by filing an appeal seeking enhancement of compensation. The age of the claimant was fixed at 36



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12. Therefore, he is entitled to 40% enhancement towards future prospects. The applicable multiplier would be 15. Therefore, the amount of Rs. 18,90,000/- awarded by the tribunal under the head compensation for 75% of functional disability is confirmed.

12. Th learned counsel for the appellant submitted that the amount of Rs.1,00,000/- awarded by the tribunal under the head pain and suffering is on higher side. Having adopted multiplier method, the Tribunal ought not have awarded Rs.1,00,000/- under the head pain and suffering. The claimant is entitled only to a nominal amount under the said head. However, taking into consideration the date of accident and the tribunal fixed only Rs.10,000/- as notional income, this court is not inclined to disturb the amount awarded under the head pain and suffering. The amount of Rs.2,80,878/- awarded under the head medical expenses is based on the medical bills produced by the claimant. Hence, the same is confirmed. The amount of Rs.50,000/- awarded under the head loss of amenities and Rs.25,000/- under the head transportation charges, attendant charges and extra nourishment



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are reasonable. Therefore, the award passed by the tribunal requires no interference from this court.

13. Accordingly, the civil miscellaneous appeal is dismissed. The appellants/ Insurance companies are directed to deposit the award amount, along with interests and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of copy of this judgment. On such deposit, the 1st respondent/claimant is permitted to withdraw the same along with interest and costs, less the amount if any, already withdrawn by filing a formal application before the Tribunal. No costs. Consequently, the connected miscellaneous petition is closed.

25.03.2025

Index:Yes/No
Internet:Yes/No
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To

1. The Motor Accident Claims Tribunal
Special District Court, Erode.
2. The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTCHAR, J.

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