



C.M.A.No.400 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 21.02.2025

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.400 of 2025

V.Vimal Kumar @ Vimal

... Appellant

vs.

1.Jagan

2.Reliance General Insurance Co., Ltd.,
Motor Third Party Claim Cell,
No.6, Haddows Road, Nungambakkam,
Chennai-34.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to allow this appeal and to enhance the amount awarded in M.C.O.P.No.638 of 2014 dated 04.03.2024 on the file of Motor Accident Claims Tribunal, (Small Causes Court, Special Sub Judge No.II), Chennai.

For Appellant : Mr.K.Varadhakamaraj

For R2 : Mr.P.Suresh Srinivasan

For R1 : Notice Dispensed With

J U D G M E N T

Not satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, the injured/claimant has come by way of this appeal.



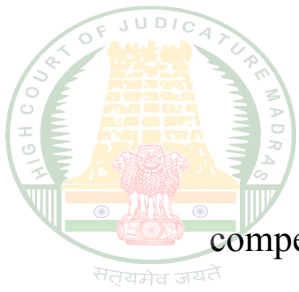
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2. It is the case of the appellant/claimant that he travelled as a pillion rider in motorcycle bearing Registration No.TN 03 L 5905 on 24.11.2013 proceeding from North to South. According to the appellant/claimant, the driver of the two wheeler had driven the vehicle in a rash and negligent manner and dashed against one car bearing Registration No.TN 10 AF 4894 from behind and due to the impact, the claimant fell down from the vehicle and sustained grievous injuries. The claimant suffered comminuted fracture of right tibia. Therefore, a claim petition was filed by the appellant/claimant seeking compensation of Rs.7,00,000/-.

3. Before the Tribunal, the appellant/claimant was examined as PW.1. On the side of the appellant-claimant, 11 documents were marked as Exs.P1 to P11. No one was examined on the side of the respondents and no documents were marked. The Disability Certificate of the appellant issued by the Medical Board was marked as Ex.C1.

4. As against the said claim, the Tribunal based on the evidence available on record awarded only a sum of Rs.1,46,000/- as compensation for the injuries suffered by the claimant. Not satisfied with the quantum of



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compensation fixed by the Tribunal, the claimant has come by way of this

WEB.COMM appeal.

5. The 1st respondent remained *exparte* before the Tribunal and hence, notice to him is dispensed with. Mr.P.Suresh Srinivasan, learned counsel takes notice for the 2nd respondent/Insurance Company.

6. By consent of learned counsel appearing for the appellant and learned counsel appearing for the 2nd respondent/Insurance Company, the Civil Miscellaneous Appeal itself is taken up for final disposal.

7. Both the learned counsel appearing for the appellant as well as learned counsel appearing for the 2nd respondent have not advanced any arguments on the question of negligence and liability aspects. Therefore, facts necessary for deciding those questions are not discussed in this judgment.

8. The learned counsel appearing for the appellant would submit that



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the claimant was a B.E., Mechanical Engineer employed in a Company called AEGIS and he was receiving a salary of Rs.10,000/- per month.

However, the Tribunal has not awarded any amount under the head loss of income for the treatment period. The learned counsel further submits that the amount awarded under the heads viz., attender charges, transport charges and loss of amenities are very much on lower side.

9. The learned counsel appearing for the 2nd respondent/Insurance Company would submit that the claimant suffered a disability of 18% and his avocation is not affected and therefore, the Tribunal is justified in not awarding any amount under the head loss of income during the treatment period. He further submits that the amount awarded by the Tribunal under various heads are justified and reasonable.

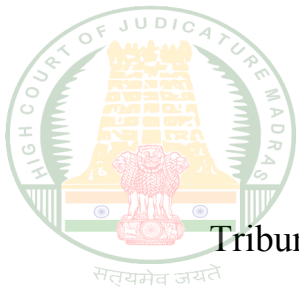
10. A perusal of the Discharge Summary marked as Ex.P1 would indicate that the claimant was admitted in hospital on 02.12.2013 and he underwent surgery on 04.12.2013 and finally he was discharged from hospital on 07.12.2013. Further, a perusal of the Discharge Summary would indicate that the claimant suffered comminuted fracture of right tibia and he



was operated for Intramedullary Nailing (ILN) of fractured right tibia.

Therefore, the grievous injuries suffered by the claimant could have certainly kept him out of job for nearly two months. Therefore, the claimant is entitled to claim under the head loss of income atleast for a period of two months. Though it was claimed by the claimant that he was a BE Mechanical Graduate, he has not produced any document to prove his income. Therefore, following the law laid down by Division Bench of this Court in *Andal and others vs. Avinav Kannan and others* reported in *MANU/TN/6368/2018*, this Court is inclined to fix the notional income of the claimant at Rs.10,000/- per month and grant loss of income for two months. Therefore, the claimant is entitled to Rs.20,000/- under the head loss of income.

11. Having regard to the date of accident and the nature of injuries suffered by the claimant, the amount of Rs.2,500, Rs.3,000/- and Rs.5,000/- awarded by the Tribunal under the head attendant charges, transportation charges and loss of amenities are enhanced to Rs.5,000/-, Rs.5,000/- and Rs.15000/- respectively. Therefore, the claimant is entitled to a sum of Rs.1,80,500/- as against the amount of Rs.1,46,000/- awarded by the



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Tribunal. Accordingly, the award passed by the Tribunal is modified as

follows:-

Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court	Remarks
1.	Part Disability	Rs.54,000/-	Rs.54,000/-	Confirmed
2.	Pain and Suffering	Rs.20,000/-	Rs.20,000/-	Confirmed
3.	Loss of Income	-	Rs.20,000/-	Granted
4.	Medical Expenses	Rs.56,500/-	Rs.56,500/-	Confirmed
5.	Attendant Charges	Rs.2,500/-	Rs.5,000/-	Enhanced
6.	Transportation	Rs.3,000/-	Rs.5,000/-	Enhanced
7.	Loss of Amenities	Rs.5,000/-	Rs.15,000/-	Enhanced
8.	Extra Nourishment	Rs.5,000/-	Rs.5,000/-	Confirmed
	Total	Rs.1,46,000/-	Rs.1,80,500/-	

12. In view of the discussions made earlier, the total compensation awarded by the Tribunal is enhanced to Rs.1,80,500/- as against Rs.1,46,000/- as ordered by the Tribunal. The 2nd respondent/Insurance Company is directed to deposit the enhanced award amount of Rs.1,80,500/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, (excluding the delay period of 180 days as per order in C.M.P.No.1870 of 2025, dated 30.01.2025) and after deducting the amount already deposited, if any, to the credit of M.C.O.P.No.638 of 2014 on the file of the Motor Accident Claims Tribunal, (Small Causes Court, Special Sub Judge No.II), Chennai, within a period of four weeks



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from the date of receipt of copy of this judgment. On such deposit, the appellant/claimant is entitled to withdraw the award amount by making formal application.

13. With the above direction, the Civil Miscellaneous Appeal is partly allowed. No costs.

21.02.2025

Index :Yes/No
Speaking order :Yes/No
Neutral Citation :Yes/No
dm

To

- 1.The Motor Accident Claims Tribunal,
(Small Causes Court, Special Sub Judge No.II),
Chennai.
- 2.The Reliance General Insurance Co., Ltd.,
Motor Third Party Claim Cell,
No.6, Haddows Road, Nungambakkam,
Chennai-34.
- 3.The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

dm

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