



CMA.No.618 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :28.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.618 of 2025

K.Baskaran

... Appellant

Vs.

1.S.Uma

2..The Divisional Manager

United India Insurance Co. Ltd,

DO, 13A, Nethaji Road,

Cuddalore 607 001.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to allow the appeal and enhance compensation in MCOP No.2729 of 2015 dated 08.03.2024 on the file of the Motor Accidents Claims Tribunal/Special District Court II, Cuddalore.

For Appellant : Mr.Ramya V.Rao

For Respondents : Mr.R.Rathna Thara for R2
R1-Notice dispensed with.

JUDGMENT

Not satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, the injured claimant has come before



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WEB COPY this court by way of this appeal seeking enhancement of the compensation.

2. It is not in dispute that the appellant/claimant suffered injury in a road accident that had taken place on 26.06.2015 when he was riding in Hero Honda motorcycle as a pillion rider. It is the specific case of the claimant that the first respondent's tractor was driven by its driver in an rash and negligent manner and dashed against the motorcycle in which the claimant had travelled. Therefore, the claim petition was filed seeking compensation against the first and the second respondents, the owner and the insurer of the tractor.

3. The first respondent, owner of the tractor remained *ex-parte* and the claim petition was opposed by the second respondent, insurer of the tractor on the ground that the accident had occurred only due to negligence on the part of the driver of the two-wheeler. It was the specific case of the insurer that the two-wheeler driver attempted to overtake the tractor and in the process met with an accident.

4. The Tribunal, based on the evidence available on record, came to the conclusion that the accident had occurred only due to the rash



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WEB COPY and negligent driving of the tractor by its driver. The compensation payable to the claimant was quantified at Rs.2,05,500/-. Not satisfied with the quantum, the claimant has come before this court.

5. Both the learned counsel for the appellant as well as 2nd respondent have not advanced any arguments on the questions of negligence as well as liability. Hence, the facts necessary to decide those questions are not discussed in this appeal.

6. The learned counsel for the appellant/claimant submitted that the claimant suffered fracture in left humerus and left calcaneum bone. The medical board which examined the claimant assessed the disability at 34%. The Tribunal, without taking into consideration that the injury suffered by the claimant would interfere with his avocation and wrongly quantified the compensation on percentage basis. The learned counsel further submitted that the amount awarded by the tribunal under various other heads like pain and suffering, loss of amenities, extra nourishment, loss of income are very much on lower side.

7. The learned counsel for the second respondent/ insurance company submitted that absolutely there is no evidence available on



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record to show that claimant suffered disability which interfered with his avocation and hence, the Tribunal was justified in granting compensation on percentage basis.

8. It is seen from Exhibit P2, Discharge Summary, the claimant suffered a fracture in left humerus and left calcaneum bone. The claimant was treated for the fracture by internal plate fixation. The medical board which assessed the claimant issued Exhibit C1, Disability Certificate, fixing the disability at 34%. Taking into consideration the date of accident, the tribunal granted Rs.4000/- per percentage of the disability and assessed the compensation under the head permanent disability at Rs.1,36,000/-

9. In the claim petition, it was stated by the claimant that he was a graduate and a school teacher in a private school. There is no evidence available on record to show that the fracture suffered by the claimant interfered with his employment. It is not the case of the claimant that due to the accident he was removed from his job. In these circumstances, the Tribunal was justified in not adopting multiplier method and awarding compensation on percentage basis. Having regard



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to the date of accident, the amount of Rs.4000/- awarded by the tribunal per percentage of the disability is just and reasonable.

10. Considering the nature of the fracture suffered by the claimant and the treatment given to him namely internal plate fixation, this court feels that the amount of Rs.20,000/- and Rs.10,000/- awarded by the tribunal respectively for pain and suffering and loss of amenities shall be increased to Rs.40,000/-each. The amount of Rs.5,000/- awarded by the tribunal under the head extra nourishment is increased to Rs.10,000/-. The tribunal awarded Rs.10,000/- towards the loss of income. Taking into consideration the date of accident, the amount of Rs.15,000/- can be fixed as notional income for the injured. Having regard to the nature of the injuries suffered by her, this court feels that it would be appropriate to grant loss of income for four months period. Therefore, the claimant is entitled to Rs.60,000/- under the head loss of income. The amount of Rs.10,000/- awarded by the tribunal under the head loss of expectation of life is set aside.

11. In view of the discussions made earlier, the compensation awarded by the Tribunal is modified as follows:-



Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Permanent disability	1,36,000/-	1,36,000/-	Confirmed
2.	Pain and Suffering	20,000/-	40,000/-	Enhanced
3.	Loss of amenities	10,000/-	40,000/-	Enhanced
4.	Extra Nourishments	5,000/-	10,000/-	Enhanced
5.	Transport expenses	5,000/-	5,000/-	Confirmed
6.	Loss of expectation of life	10,000/-	Nil	Set aside
7.	Attender charges	9,500/-	9,500/-	Confirmed
8.	Loss of income	10,000/-	60,000/-	Enhanced
	Total	2,05,500/-	3,00,500/-	Enhanced by Rs.95,000/-

12. With the above modifications, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,05,500/- is enhanced to Rs.3,00,500/-.The appellant is entitled to interest at the rate of 7.5% per annum from the date of filing of the



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WEB COPY claim petition till the date of realization. The second respondent

/Insurance company is directed to deposit the enhanced award amount along with interest 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. The appellant/claimant is permitted to withdraw the same along with interests and costs, less the amount if any, already withdrawn by filing a formal application before the Tribunal. No costs.

28.03.2025

Index:Yes/No
Internet:Yes/No
nr

To

1. Motor Accidents Claims Tribunal
Special District Court II, Cuddalore.

2. The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTCHAR, J.

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