



CMA.No.384 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 26.03.2025

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA.No.384 of 2025

Pon Irish Richard

... Appellant

Vs.

1.Venkatesan

2.The New India Assurance Company Limited,
No.45, Moore Street,
Chennai – 600 001.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the order made in MCOP.No.3090 of 2016, dated 14.02.2024, on the file of the Motor Accident Claims Tribunal (Special Sub Court No.1, Motor Accident Claims Petitions), Small Causes Court, Chennai.

For Appellants :Mr.K.Balaji

For Respondents :Mr.R.Rajesh for R2
Notice Dispensed with for R1



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J U D G M E N T

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Not satisfied with the quantum of compensation awarded by the Tribunal, the claimant has come before this Court.

2. It is not in dispute that the appellant/claimant suffered injury in a road accident that had occurred on 18.08.2015. It is the case of the claimant that he was riding a two wheeler at Maduravoyal Bypass Road. It was further stated by the claimant that container lorry belongs to the first respondent insured with the second respondent was parked in no parking area without any signal. Therefore, two wheeler driven by the claimant dashed against the lorry and victim had suffered grievous injuries. Hence, the claim petition was filed seeking compensation of Rs.25,00,000/-.

3. The first respondent owner of the lorry remained ex-parte before the Tribunal. The claim petition was contested only by the insurer of the lorry. The counter was filed by the second respondent denying the manner of accident, as alleged in the claim petition. The second respondent also denied the age, income etc., of the claimant.



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4. The Tribunal based on evidence available on record, came to the conclusion that the accident had occurred only due to the rash and negligence driving on the part of the driver of the container lorry and quantified the compensation at Rs.9,24,000/-. Not satisfied with the quantum of compensation, the claimant has come by way of this appeal.

5. The learned counsel appearing for the appellant as well as the second respondent/Insurance Company have not advanced any arguments on the questions of negligence and liability aspects. Therefore, necessary facts for considering those questions are not discussed in this judgment.

6. The learned counsel appearing for the appellant would submit that Medical Board assessed the disability suffered by the claimant at 35%. The Tribunal committed a grave error in not applying multiplier method. He further submitted that the claimant suffered brain injury and the amounts awarded by the Tribunal under various heads such as pain and suffering, loss of amenities, loss of earning etc., are on the lower side.



7. The learned counsel appearing for the second respondent

would submit that the claimant has not produced any documents to show that he suffered functional disability and hence the Tribunal was justified in calculating the compensation under the head disability on percentage basis. The learned counsel further submitted that the amount awarded by the Tribunal under various heads are fair and reasonable.

8. In order to prove the disability suffered by the claimant, the disability certificate issued by the Medical Board was marked as Ex.C1. A perusal of the same would suggest the claimant suffered head injuries and the disability percentage was fixed as 35%. It is seen from Exs.P5 to P7- discharge summaries the claimant was in hospital from 18.08.2015 to 01.09.2015 and 31.03.2016 to 03.04.2016, total period of 19 days. A perusal of the discharge summary marked as Ex.P5 would indicate that the claimant was admitted for severe Traumatic Brain injury, brain stem contusion, Tentorial Haemorrhage, multiple Craniofacial fractures and Ex.P7 would indicate that he was admitted for orofacial Residual deformity (Post-Traumatic) and discharged with advice to undergo 40 minutes of brisk walking. The claimant has not produced any documents to show that



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he continued the treatment even after last discharge on 03.04.2016. It is the case of the claimant that he was employed in company as a Human Resources Management Personnel, the appointment letter issued by the Company and the salary slips were marked as Exs.P12 and P13.

9. It is seen from Exs.P5 to P7, the claimant has been taking treatment from 18.08.2015 to April 2016. Therefore, this Court feels the claimant is entitled to loss of income for a period of eight months. As per Ex.P13-salary bill, the salary of the claimant was Rs.35,833/-. In salary bill a sum of Rs.800/- was paid towards conveyance and the same is personal in nature. Therefore, the same shall be deducted. The notional income of the deceased is fixed at Rs.35,000/-, the claimant is entitled to Rs.2,80,000/- under the head loss of income for the treatment period. Having regard to the nature of injury suffered by the claimant, the amount awarded by the Tribunal under the head pain and suffering and loss of amenities are increased to Rs.50,000/- (each). The amount awarded for transportation is increased to Rs.20,000/-, likewise, the amount awarded under the head of extra nourishment and attender charges are increased to Rs.15,000/- and Rs.10,000/- respectively. The amount of Rs.6,84,599/- awarded under the



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head medical expenses is based on the medical bills produced by the claimant and the same is confirmed.

10. As per Ex.C1, the claimant suffered disability of 35%. As mentioned earlier, the claimant is employed as Human Resource Personnel and there is no evidence available on record to suggest that the disability suffered by the claimant actually interfered with his avocation as Human Resource Personnel. In these circumstances, the Tribunal was justified in awarding compensation on percentage basis. The Tribunal taking into consideration, the date of accident awarded Rs.4,000/- per percentage of disability. Hence, the amount of Rs.1,40,000/- awarded under the head of disability is confirmed and the claimant is entitled to total compensation of Rs.12,49,599/-.

11. In view of the discussions made earlier, the award passed by the Tribunal is modified as follows:



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Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court
1.	Disability	Rs.1,40,000/-	Rs.1,40,000/-
2.	Pain and suffering	Rs.40,000/-	Rs.50,000/-
3.	Transportation	Rs.4,000/-	Rs.20,000/-
4.	Medical Expenses	Rs.6,84,599/-	Rs.6,84,599/-
5.	Extra nourishment	Rs.10,000/-	Rs.15,000/-
6.	Attender charges	Rs.6,000/-	Rs.10,000/-
7.	Loss of earnings	Rs.19,000/-	Rs.2,80,000/-
8.	Loss of amenities	Rs.20,000/-	Rs.50,000/-
	Total	Rs.9,23,599/- rounded off to Rs.9,24,000/-	Rs.12,49,599/-

12. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to Rs.12,49,599/-, The 2nd respondent/Insurance Company is directed to deposit the enhanced award amount 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 234 days as per CMP.No.1798 of 2025) after deducting the amount already deposited, if any, to the credit of MCOP.No.3090 of 2016, on the file of the Motor Accident Claims Tribunal (Special Sub Court No.1, Motor Accident Claims Petitions), Small Causes Court, Chennai. within a period of six weeks from the date of receipt of copy of this common judgment. On such



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deposit, the appellant/claimant is permitted to withdraw the award amount by filing appropriate application before the Tribunal. It is stated by the counsel for the second respondent, the Tribunal awarded pay and recovery, the said finding is confirmed.

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

26.03.2025

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

1.The Motor Accident Claims Tribunal
(Special Sub Court No.1, Motor Accident Claims Petitions),
Small Causes Court, Chennai.

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

S.SOUNTHAR, J.



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