



C.M.A.No.3506 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.3506 of 2024

C.Selvaraju @ Selvaraj

... Appellant

Vs.

1.A.Pugazhendi

2.The Divisional Manager,
United India Insurance Company Ltd.,
13A, Nethaji Road, DO,
Cuddalore – 607 001.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree in M.C.O.P.No.55 of 2020 dated 27.02.2023 on the file of the Motor Accident Claims Tribunal/ (In the Court of Principal Sub Judge, Cuddalore).

For Appellant : M/s.Ramya V Rao

For Respondents : Mr.J.Michael Visuvasam [R2]

JUDGMENT

The above appeal is filed by the petitioner/claimant seeking an enhancement of the compensation awarded by the Motor Accidents Claims



C.M.A.No.3506 of 2024

Tribunal/ In the Court of the Principal Sub Judge, Cuddalore in

M.C.O.P.No.55 of 2020.

2. The case of the appellant is that, on 19.10.2019 at about 19.45 hours, while he was riding his motorcycle bearing Regn.No.TN-31-CZ-2707 from east to west at a moderate speed, on the extreme left at the junction of Dr.Radhakrishnan Salai and Bharathi Salai, Block 9, Neyveli, the 1st respondent driven his car bearing Regn.No.TN-32-AE-9920, insured with the 2nd respondent, came from south to north at a great speed, in a rash and negligent manner without making horn and dashed against the appellant's motorcycle, thereby, he sustained fracture and multiple grievous injuries. Therefore, the appellant had filed a claim petition claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by him in the said road accident.

3. Before the Tribunal, the appellant had examined himself as P.W.1 and marked 11 documents viz., Ex.P.1 to Ex.P.11. No witnesses were examined nor any documents were marked on the side of the respondents. The Disability Certificate issued by the Medical Board,



C.M.A.No.3506 of 2024

Cuddalore was marked as Ex.C.1. After adjudication, the Tribunal awarded a sum of Rs.4,45,000/- as compensation to the appellant. Not satisfied with the same, the appellant has preferred the present appeal seeking enhancement.

4. Learned counsel appearing for the appellant submitted that, at the relevant point of time, per percentage of disability is Rs.8,000/-, however, the Tribunal had awarded a sum of Rs.2,45,000/- by fixing a sum of Rs.5,000/- per percentage of disability and disability at 49%, which is not sustainable and the same requires to be re-considered by this Court. Further, the other heads awarded by the Tribunal is meagre, which requires to be enhanced. Accordingly, he prays for appropriate enhancement in favour of the appellant.

5. Learned counsel appearing for the second respondent/Insurance Company submitted that, the amount of Rs.5,000/- awarded per percentage of disability is reasonable and so also the compensation awarded under the other heads, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.



C.M.A.No.3506 of 2024

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6. Heard the learned counsel appearing for the appellant and the learned counsel appearing on behalf of the second respondent and perused the materials available on record.

7. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The only grievance of the appellant/claimant is with regard to the quantum of compensation awarded. In this regard, this Court perused Ex.C.1, which is the disability certificate issued by the Medical Board, Cuddalore and the same reveals that the appellant had suffered disability of 49%. By considering the said certificate, the Tribunal, had erroneously adopted a sum of Rs.5,000/- per percentage of disability and awarded a sum of Rs.2,45,000/- towards disability. However, as per the existing law at the relevant point of time, the Tribunal ought to have fixed a sum of Rs.8,000/- per percentage of disability. Hence, this Court is inclined to fix a sum of Rs.8,000/- per percentage of disability. Therefore, the amount under the head of disability stands enhanced to a sum of Rs.3,92,000/- (49 x Rs.8,000/- = Rs.3,92,000/-).



C.M.A.No.3506 of 2024

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8. Further, the Tribunal had awarded a sum of Rs.1,20,000/- towards pain and suffering; Rs.20,000/- towards attender charge; Rs.20,000/- towards extra nourishment; Rs.30,000/- towards travel expenses and Rs.10,000/- towards comfort and amenities. This Court finds that the compensation awarded under the heads pain and suffering, attender charge and travel expenses are just and reasonable and the same does not require any interference. However, insofar as the compensation awarded towards extra nourishment is concerned, this Court feels that a sum of Rs.30,000/- would be just and reasonable compensation.

9. Insofar as the compensation awarded under the head comfort and amenities, no compensation can be awarded under such head as the same is not a conventional head, which attract any compensation. Therefore, the compensation awarded under the said head is accordingly set aside.

10. In view of the above, the compensation awarded by the Tribunal is modified as under :-



C.M.A.No.3506 of 2024

<i>S. No.</i>	<i>Description</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
1	Permanent or Partial Disability (49 x Rs.8,000/-)	2,45,000/-	3,92,000/- (enhanced)
2	Pain and suffering	1,20,000/-	1,20,000/-
3	Attender charges	20,000/-	20,000/-
4	Extra nourishment	20,000/-	30,000/- (reduced)
5	Travel Expenses	30,000/-	30,000/-
6	Comfort and Amenities	10,000/-	-
	Total	4,45,000/-	5,92,000/-

11. Accordingly, this Civil Miscellaneous Appeal is partly allowed and the impugned award is modified, enhancing the compensation amount from **Rs.4,45,000/-** to **Rs.5,92,000/-**. The second respondent/ Insurance Company is directed to deposit the compensation amount, awarded by this Court, to the credit of M.C.O.P.No.55 of 2020 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four weeks (4) from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellant/claimant through RTGS within a period of two (2)



C.M.A.No.3506 of 2024

weeks thereafter upon production of proof with regard to payment of Court

fee on the enhanced compensation. The appellant/claimant is directed to

pay necessary additional Court fee on the enhanced compensation amount.

It is made clear that the appellant will not entitled to any interest for the

delay period. There shall be no order as to costs in the present appeal.

03.01.2025

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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To

The Motor Accident Claims Tribunal/In the Court of the Principal Sub Judge, Cuddalore.



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C.M.A.No.3506 of 2024

M.DHANDAPANI, J.

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C.M.A.No.3506 of 2024

03.01.2025