



WEB COPY



C.M.A.No.3505 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.3505 of 2024

Pushparaj

...Appellant

Vs.

1. Sridevi
2. The Divisional Manager,
The New India Assurance Co. Ltd,
No.1, Bharathi Road,
Arcot Woodlands Buildings Campus,
Cuddalore – 607 001.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.1245 of 2020 dated 20.07.2023 on the file of Motor Accidents Claims Tribunal / (Chief Judicial Magistrate, Cuddalore).

For Appellant : Mrs.Ramya.V.Rao

For Respondents : R1 (Ex-parte)

Mr.C.Johnson for R2

JUDGEMENT

Challenging the judgment and decree in M.C.O.P.No.1245 of 2020 dated 20.07.2023 on the file of Motor Accidents Claims Tribunal / (Chief Judicial Magistrate, Cuddalore).



C.M.A.No.3505 of 2024

2. Mr.C.Johnson, learned counsel takes notice on behalf of the 2nd respondent. With the consent of the learned counsel appearing on either side, the above appeal is taken up for final disposal based on the materials available on records.

3. It is the case of the appellant/claimant that, on 11.10.2020 at about 7.30 p.m, when the appellant was travelling his motorcycle bearing Regn.No.TN-31-CV-185, at that time, a two wheeler bearing Regn.No.TN-31-CX-0969 which came in the opposite direction belonging to the first respondent driven by its driver in a rash and negligent manner had hit the appellant, due to which the claimant sustained grievous injuries all over his body. Thereby, the appellant has filed a claim petition seeking compensation of Rs.20,00,000/-.

4. Before the tribunal, the claimant examined himself as P.W.1 and marked exhibits P.1 to P.13 and on the side of respondents they examined R.W.1 and Exhibit R1 was marked and the disability certificate issued by the Medical Board was marked as court document Ex.C.1. After trial, the Tribunal, on appreciation of oral and documentary evidence though came to a conclusion that the accident had taken place solely due to the rash and negligent driving of the driver of the 1st respondent vehicle, and had awarded a compensation of



C.M.A.No.3505 of 2024

Rs.2,75,150/- to be payable by the second respondent/insurance company and thereafter, the second respondent was directed to recover the said amount from the first respondent / owner. Being not satisfied with the quantum of compensation awarded by the Tribunal, the appellant/claimant has come up with this appeal seeking enhancement of compensation.

5. Learned counsel appearing for the appellant submitted that admittedly, the above said accident occurred solely due to the rash and negligent driving of the driver of the 1st respondent, due to which, the appellant sustained grievous injuries all over his body. Though the accident is of the year 2020, the tribunal had taken only a sum of Rs.5,000/- per percentage instead of Rs.10,000/-, which is not sustainable and the compensation awarded under the other heads are also on lower side and the same has to necessarily be enhanced. Accordingly, she prayed for appropriate orders.

6. Per contra, the learned counsel appearing for the 2nd respondent/ Insurance Company submitted that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prayed for dismissal of the appeal.



C.M.A.No.3505 of 2024

7. Heard the learned counsel on either side and perused the materials available on record.

8. The factum and manner of the accident is not disputed by the parties and the claimant has not raised any issue on the aspect of negligence and therefore, this Court is not venturing into the same. The major grievances of the Appellant/claimant is with regard to the quantum of compensation awarded by the Tribunal. It is claimed by the appellant that though the accident is of the year 2020, however, the Tribunal had taken had erroneously taken a sum of Rs.5,000/- per percentage of disability. However, as per the existing law at the relevant point of time, the Tribunal ought to have fixed a sum of Rs.9,000/- per percentage of disability. Hence, this Court is inclined to fix a sum of Rs.9,000/- per percentage of disability. On a perusal of Ex.C.1, which is the disability certificate issued by the Medical, it reveals that the appellant suffered disability of 25%. Therefore, the amount under the head Disability stands enhanced to a sum of Rs.2,25,000/- ($25\% \times \text{Rs.9,000/-} = \text{Rs.2,25,000/-}$).

9. A sum of Rs.26,000/- has been granted under the head “loss of income” which is on the lower side and the same is enhanced to a sum of Rs.30,000/-. A sum of Rs.35,000/- has been granted under the head “pain and



C.M.A.No.3505 of 2024

suffering” which is very meagre and the same is enhanced to a sum of Rs.75,000/-. A sum of Rs.5,000/- has been granted under the head “extra nourishment” which is very meagre and the same is enhanced to a sum of Rs.20,000/-. A sum of Rs.2,000/- has been granted under the head “damages to clothes” which is highly excessive and the same is reduced to a sum of Rs.1,000/-. A sum of Rs.5,000/- has been granted under the head “Transportation” which is very low and the same is enhanced to a sum of Rs.10,000/- and Rs.16,000/- has been granted under the head “attender charges, which is very low and the same is enhanced to a sum of Rs.20,000/-. A sum of Rs.61,147/- has been granted under the head “medical bills” which is hereby confirmed.

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

<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Disability	1,25,000/-	2,25,000/-
Loss of income	26,000/-	30,000/-
Pain and suffering	35,000/-	75,000/-
Medical Bills	61,147/-	61,147/-
Extra nourishment	5,000/-	20,000/-
Damages to clothes	2,000/-	1,000/-
Transportation	5,000/-	10,000/-



WEB COPY



C.M.A.No.3505 of 2024

<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Attender charges	16,000/-	20,000/-
Total	2,75,147/-	4,42,147/-
Rounded off	2,75,150/-	4,42,150/-

11. Accordingly, the appeal is partly allowed and the impugned award of the Tribunal is modified enhancing the compensation amount from Rs.2,75,150/- to **Rs.4,42,150/-**. The 2nd respondent/Insurance Company is directed to deposit the said amount to the credit of MCOP.No.1245 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 (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the said amount directly to the bank account of the Appellant through RTGS within a period of two (2) weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced compensation by the appellant. It is made clear that the pay and recovery ordered by the Tribunal is hereby confirmed. It is underscored that the appellant is not entitled to any interest for the default period, if any. There shall be no order as to costs in the present appeal.



C.M.A.No.3505 of 2024

03.01.2025

WEB COPY

rap

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes / No

To

1. Motor Accidents Claims Tribunal / (Chief Judicial Magistrate, Cuddalore).
2. The Section Officer,
V.R. Section, High Court, Madras.

M.DHANDAPANI, J.



WEB COPY



C.M.A.No.3505 of 2024

rap

C.M.A.No.3505 of 2024

03.01.2025