



CMA.No.925 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 17.04.2025

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA.No.925 of 2025

Arumugam

... Appellant

Vs.

1.Pradeepkumar

2.Shriram General Insurance Company Limited,
No.421014, 1st Floor, Front portion,
No.5, Sachin Plaza, /reddiyur,
Block No.1, Salem – 636 106.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to allow the appeal and enhance compensation in MCOP.No.226 of 2020 dated 10.03.2023 on the file of the Motor Accidents Claims Tribunal/Special Subordinate Court No.1, Salem.

For Appellant :Mrs.Ramya V.Rao

For Respondents :Mr.B.Sivakolappan 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 injured claimant has come before this Court.

2. According to the appellant/claimant when he was standing near K.R.Thoppur, Muthunaickenpatti Main Road, Primary Health Centre, the tempo vehicle belonged to the first respondent insured with the second respondent came in a rash and negligent manner and hit the claimant. As a result of the accident, the claimant received crush injury and his right leg was amputated above knee and hence the petition was filed seeking compensation.

3. The first respondent remained ex-parte before the Tribunal and the claim petition was opposed by the second respondent insurer of the offending vehicle by denying manner of accident. It was claimed by the second respondent insurer that the accident had occurred only due to the negligence on the part of the claimant.



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4. The Tribunal based on the evidence available on record came to the conclusion that the accident had occurred only due to the negligence on the part of the driver of the first respondent's vehicle. However, the Tribunal ordered pay and recovery on the ground that the driver of the first respondent's vehicle did not possess any valid driving licence. The amount payable to the claimant was quantified at Rs.16,44,810/-. Not satisfied with the quantum of compensation, the claimant has come before this Court.

5. Both the counsel appearing for the appellant and the 2nd respondent have not advanced arguments on the aspects of negligence and liability. Therefore, the facts necessary for deciding negligence and liability have not been discussed in this judgment. The present appeal is confined to the quantum of compensation.

6. The learned counsel appearing for the appellant would submit that the notional income of Rs.10,000/- fixed by the Tribunal is meagre one and requires enhancement. The learned counsel would submit that the amount awarded by the Tribunal under the head future medical



expenses requires enhancement taking into consideration that the claimant has to undergo replacement of artificial leg periodically. The learned counsel for the 2nd respondent submits that the claimant has not produced any documentary evidence to prove his avocation and therefore, the Tribunal was justified in fixing the notional income.

7. It is not in dispute, due to crush injury received by the claimant, his right leg was amputated above knee level. It was stated by the claimant that he was an agriculturist and also milk and vegetable vendor and was earning a sum of Rs.30,000/- per month. However, in order to prove avocation and income, the claimant has not produced any documentary evidence. The Tribunal fixed the notional income of the claimant only at Rs.10,000/-. Even if there is no documentary evidence to substantiate the plea in the claim petition with regard to the income, taking into consideration that the accident had occurred in the year 2020 and prevailing cost of living, this Court is inclined to fix Rs.16,500/- as notional income. The Tribunal based on Exs.P2 and P3, the accident register and wound certificate fixed the age of the claimant at 52 years. Therefore, the claimant is entitled to 10% towards future prospects and the applicable multiplier is '11'.



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8. A perusal of Ex.C1-disability certificate issued by competent medical board would indicate that the claimant suffered amputation of right leg above knee level and the medical board fixed the disability at 80%. Since the amputation suffered by the claimant interfered with his avocation as an Agriculturist, Milk and vegetable vendor, the Tribunal was justified in applying the multiplier method. Therefore, the compensation payable to the claimant under the head disability is fixed at Rs.19,16,640/- ($16,500 \times 1.1 \times 12 \times 11 \times 80/100$).

9. A perusal of Ex.P8 bill produced by the claimant for purchasing artificial limb would indicate that he had spent above Rs.1,45,000/- and Exs.P9 and P23 are only invoices for artificial limb and the same cannot be taken into consideration when the claimant purchased the artificial limb for Rs.1,45,000/- under Ex.P8. The evidence of PW.2 would indicate that the claimant may have to replace the artificial limb once in five years. Taking into consideration the age of the claimant and the necessity of replacement of artificial limb in future, this Court feels that the amount of Rs.2,00,000/- awarded by the Tribunal under the head of artificial



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limb and the future expenses is not sufficient. Therefore, the said amount is enhanced to Rs.3,00,000/-.

10. Taking into consideration, the nature of injury and the pain undergone by the claimant, the amount awarded by the Tribunal under the head pain and suffering, loss of amenities, extra nourishment and attender charges etc are affirmed. The amount of Rs.72,210/- awarded by the Tribunal under the head medical expenses which is based on the evidence available on record is also confirmed.

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

Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court
1.	Pain and suffering	Rs.90,000/-	Rs.90,000/-
2.	Transport expenses	Rs.40,000/-	Rs.40,000/-
3.	Medical expenses	Rs.72,210/-	Rs.72,210/-
4.	Extra nourishment	Rs.30,000/-	Rs.30,000/-
5.	Attender charges	Rs.20,000/-	Rs.20,000/-
6.	Damages to clothes	Rs.1,000/-	Rs.1,000/-



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Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court
7.	Artificial limb and future expenses	Rs.2,00,000/-	Rs.3,00,000/-
8.	Loss of amenities	Rs.30,000/-	Rs.30,000/-
9.	Permanent disability	Rs.11,61,600/-	Rs.19,16,640/-
	Total	Rs.16,44,810/-	Rs.24,99,850/-

12. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to Rs.24,99,850/-. 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, after deducting the amount already deposited, if any, to the credit of MCOP.No.226 of 2020 dated 10.03.2023 on the file of the Motor Accident Claims Tribunal/Special Subordinate Court No.1, Salem., (excluding the delay period of 546 days as per order in CMP.No.3302 of 2025) within a period of six weeks from the date of receipt of copy of this judgment. On such deposit, the appellant/claimant is permitted to withdraw the said amount by filing appropriate application before the Tribunal.



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

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

1.The Motor Accident Claims Tribunal,
(III Small Causes Court), Chennai.

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



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S.SOUNTHAR, J.

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