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CMA No.342 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 19.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.342 of 2025

T.Udhaya Kumar

... Appellant

Vs.

1. P.Selvaraj
2. National Insurance Company Limited,
Chennai Mandalam Office-I,
Loyal Tower, 66, Greaves Road,
Chennai 600 006.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act to enhance the award amount passed in MCOP No.386 of 2020, dated 18.09.2024 on the file of the V Judge, Motor Accident Claim Tribunal, Court of Small Causes, Chennai.

For Appellant : Ms.P.T.Saleem Fathima

For Respondents : Mr.J.Chandran for second respondent.

JUDGMENT

Aggrieved by the award passed by the Tribunal, the claimant has filed the present appeal.



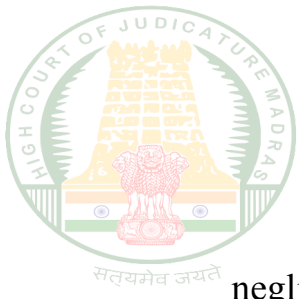
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2. It is the case of the claimant that he suffered grievous injury in a road accident that had occurred on 06.01.2019. According to him, he was travelling as a pillion rider in a motorcycle along with his friend and when they came near Anna Arch signal from West to East direction at Arumbakkam EVR Salai, a car belonging to the first respondent and insured with the second respondent came on the same direction and suddenly turned to the right side before the two wheeler and hit the motorcycle. As a result of accident, the claimant suffered grievous injury. Hence, he filed a claim petition before the Tribunal seeking compensation of Rs.10,00,000/-.

3. The first respondent remained exparte before the Tribunal. The insurer of the car/second respondent filed counter and denied the manner of accident as described in the claim petition. The Insurance company also denied the age and income of the claimant.

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



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negligence on the part of the driver of the car. The amount payable to the claimant for the injury suffered by him was quantified at Rs.1,32,000/-. Not satisfied with the quantum of compensation, the claimant has come before this court by filing the present appeal.

5. The learned counsel for the appellant/claimant would submit that the compensation of Rs.21,000/- awarded under the partial disability is very much on lower side, having regard to the nature of injury suffered by the claimant. He further submits that the claimant had been in hospital as inpatient for 14 days and hence, a sum of Rs.45,000/- awarded under the head loss of income is very meagre. He also submits that the compensation awarded towards attender charges, transportation charges are also need enhancement.

6. The learned counsel for the second respondent would submit that the medical board assessed the disability suffered by the claimant only at 3% and hence, the Tribunal was justified in quantifying the total compensation payable to the claimant at Rs.1,32,000/-, taking into consideration the facts and circumstances of the case.



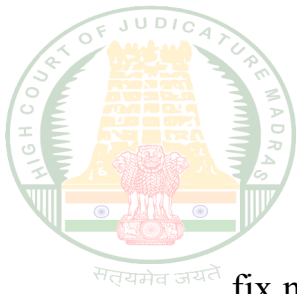
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7. It is seen from the order passed by the Tribunal that the injured/ claimant was subjected to medical examination by the Medical Board and disability certificate was issued, assessing disability at 3%. The disability certificate was marked as Ex.C1. Taking into consideration the date of accident, the Tribunal awarded a sum of Rs.7,000/- per percentage of the disability.

8. In the case on hand, the accident had occurred in the year 2019. Following the law laid down by a ***Division Bench of this Court in CMA No.3334 of 2021, dated 15.06.2022 in Future General India Insurance Company Limited Vs. Manivannan and two others***, this court is inclined to fix a sum of Rs.8000/- per percentage of disability. Accordingly, the appellant is entitled to Rs.24,000/- (3 x 8000) under the head partial disability.

9. The Tribunal awarded a sum of Rs.45,000/- under the head loss of income for three months, fixing notional income at Rs.15,000/-. Taking into consideration the date of accident, this court proceeds to



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fix notional income at Rs.16,500/-. Further the appellant was treated as inpatient for 14 days from 06.01.2019 to 19.01.2019 in Government Kilpauk Medical College Hospital. Therefore, this court is inclined to enhance the compensation under the head loss of income for four months and accordingly a sum of Rs.66,000/- (4 x 16500) is awarded towards loss of income.

10. The amount awarded by the Tribunal under the head attender charges, transportation charges are also increased to Rs.10,000/- each. However, the compensation awarded under the other heads are affirmed.

11. Accordingly, the compensation awarded by the Tribunal is revised as under:

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Partial permanent disability	21,000	24,000	enhanced



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2.	Pain and sufferings	30,000	30,000	confirmed
4.	Loss of income	45,000	66,000	enhanced
5.	Medical expenses	1,500	1,500	confirmed
6	Attender charges	7,000	10,000	enhanced
7	Transportation charges	7,500	10,000	enhanced
8	Loss of amenities	10,000	10,000	confirmed
9.	Extra nourishment	10,000	10,000	confirmed
	Total	1,32,000	1,61,500	enhanced by 29,500

12. With the above modifications, **this Civil Miscellaneous Appeal is partly allowed** and the compensation awarded by the Tribunal at Rs.1,32,000/- is hereby enhanced to **Rs.1,61,500/-** together with interest at 7.5% per annum from the date of petition till the date of deposit.

13. The **second respondent** is directed to deposit the compensation amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of **six weeks** from the date of receipt of a copy of this judgment. On such deposit being made, the appellant/ claimant shall be permitted



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to withdraw the compensation amount along with interest and costs, less the amount if any, already withdrawn, by making formal application before the Tribunal. There shall be no order as to costs.

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Index:Yes/No
Internet:Yes/No
mst

To

1. The V Judge,
Motor Accident Claim Tribunal,
Court of Small Causes, Chennai.
2. The Section Officer,
V.R.Section, Madras High Court.



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S.SOUNTHAR, J.

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