



CMA.No.1103 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :20.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.1103 of 2023

Johnson PThomas

... Appellant

Vs.

1. K.Ravi

2.S.Rajesh

3.. National Insurance Company Ltd

3rd Party Claims, Division Office-I,

No.930, Sathy Rd, Gandhipuram,

Coimbatore 641 012

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to allow the CMA by setting aside the order and decree made in MCOP No.121/2018 on the file of the Motor Accident Claims Tribunal (IV Additional District Judge, Coimbatore), Coimbatore dated 15.10.2019, in so far as it is against the appellant is concerned, by allowing the quantum as claimed in the said MCOP.

For Appellant : Mr.A.Sivaji

For Respondent :M/s.R.Sree Vidhya for R3

R1 & R2- Served-No appearance



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JUDGMENT

Not satisfied with the quantum of compensation awarded by the Tribunal, the injured claimant has come before this court by way of this appeal.

2. It is the case of the claimant that on 11-12-2017, he travelled in a Pulsar motorbike as a pillion rider, along with his friend namely E.V. Jeevan. When he was proceeding in Palakkadu-Kovai bypass road, the lorry belonged to the 2nd respondent insured with the 3rd respondent, which was driven by the first respondent came in a rash and negligent manner. The first respondent had driven the lorry in a rash and negligent manner and applied a sudden brake without any signal. Therefore, the driver of the two-wheeler lost his balance and dashed against the lorry from the backside. Due to the accident, the claimant was thrown out of the vehicle and received injuries in his left eye-brow, left ear, right side neck, head, etc. Hence, the claim petition was filed seeking compensation of Rs.10 lakhs.

3. The first and second respondents remained *exparte* before the Tribunal and the claim was resisted only by the 3rd respondent, insurer



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4. It was the case of the third respondent that the accident had occurred only due to negligence on the part of the driver of the motorcycle. It was also stated by the third respondent that driving license of the first respondent got expired on 07-12-2017, even prior to the date of accident. Therefore, the claim petition was not maintainable against the insurer.

5. The Tribunal, based on the evidence available on record, came to the conclusion that the accident had occurred solely due to the rash and negligent driving on the part of the driver of the lorry/ 1st respondent. Since the first respondent did not possess valid driving license on the date of accident, the Tribunal directed the third respondent to pay and recover from the respondents 2 and 3. The Tribunal quantified the compensation payable to the claimant at Rs.1,39,918/-. Not satisfied with the quantum, the claimant has come before this Court by way of this appeal.

6. The learned counsel for the appellant submitted that the claimant was in the hospital for nearly 7 days and hence, the amount



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WEB COPY awarded by the Tribunal under various heads like transportation charges, extra nourishment and attendant charges are very much on the lower side.

7. The Learned counsel for the 3rd Respondent /Insurance Company submitted that the claimant has not suffered any permanent disability due to the accident. No disability certificate has been produced by the claimant to prove the alleged disability. Therefore, the Tribunal was justified in quantifying the compensation at Rs.1,39,918/-

8. The claimant was examined as PW1 and through him, Exhibit P3, Wound Certificate and Exhibit P6, Discharge Summary were marked. A perusal of the same would suggest that the claimant suffered multiple displaced metacarpal fracture in the 1st and 5th finger of the left hand and he also suffered fracture in the left thumb. He was in the hospital from 11-12-2017 to 17-12-2017. Though it is stated that he received head injury, the CT scan report did not mention any evidence of intracranial bleed. It was also noted that during his stay at the hospital, the patient was neurologically stable and at the time of discharge, he had no neurological symptoms. The claimant has not



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WEB COPY produced any evidence to show that he had taken treatment subsequent to the discharge. The claimant has not produced any disability certificate to establish the permanent disability due to the fracture injury suffered by him. Taking into consideration all these factors, the Tribunal fixed a sum of Rs.18,000 towards injuries, disability etc., and the same requires no interference.

9. Taking into consideration the period of stay in the hospital, an amount of Rs.5,000/- each awarded by the Tribunal under the heads transportation charges, extra nourishment charges and attendant charges are increased to Rs.10,000/- each. The amount of Rs. 81,918/- awarded under the head medical expenses is as per Exhibit P7, medical bills and the same is confirmed. The amount awarded by the Tribunal under other heads are confirmed. Therefore, in all, the claimant is entitled to Rs. 1,54,918/-.

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



Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Pain and Suffering	20,000/-	20,000/-	Confirmed
2.	Attender Charges	5000/-	10,000/-	Enhanced
3.	Extra Nourishments	5000/-	10,000/-	Enhanced
4.	Transportation charges	5000/-	10,000/-	Enhanced
5	Injuries, disabilities and hospitalization	18,000/-	18,000	Confirmed
6.	Medical expenses	81,918/-	81,918/-	Confirmed
7.	Loss of article	5,000/-	5,000	Confirmed
	Total	1,39,918/-	1,54,918/-	Enhanced by Rs.15,000/-

11. With the above modifications, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,39,918/- is hereby enhanced to Rs.1,54,918/- The appellant/claimant is entitled to interest at the rate of 7.5% per annum (excluding the delay period, if any) from the date of filing of the claim petition till the date of realization. The 3rd respondent/Insurance



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Company is directed to deposit the enhanced sum, to the credit of MCOP No.121/2018 on the file of the Motor Accident Claims Tribunal (IV Additional District Judge, Coimbatore), along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of copy of this judgment. On deposit of the enhanced sum, the appellant/claimant is entitled to withdraw the same along with interest and costs, less the amount if any, already withdrawn by filing a formal application before the Tribunal. No costs.

20.03.2025

Index:Yes/No
Internet:Yes/No
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To

1. Motor Accident Claims Tribunal,
The IV Additional District Judge, Coimbatore
2. The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTCHAR, J.

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