



CMA.No.762 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :22.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.762 of 2025

A.Stalin @ Periyannayagam

... Appellant

Vs.

1.M.Poomalai

2.The Divisional Manager
United India Insurance Co Ltd.
Do, 13A, Nethaji Road,

Cuddalore 607 001

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to allow the appeal and enhance compensation in MCOP No.3020 of 2015 dated 13.07.2023 on the file of the Motor Accident Claims Tribunal/Special Sub Court, Cuddalore.

For Appellant : M/s.Ramya V.Rao

For Respondents : Mr.C.Paranthaman for R2

R1-Notice dispensed with

JUDGMENT

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



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2. According to the appellant/ claimant, when he was riding his two-wheeler on 04.08.2015 near Kezhuruppu to Panikkankuppam main road, the lorry belonged to the first respondent and insured with the second respondent, came in the reverse direction in a rash and negligent manner and dashed against the vehicle of the claimant. As a result of the accident, the claimant sustained grievous injuries. Hence, the claim petition was filed seeking compensation of Rs.10,00,000/-.

3. The first respondent, owner of the lorry remained ex-parte and the claim petition was opposed by the insurer of the lorry by denying the manner of accident as described in the claim petition.

4. The Tribunal, based on the evidence available on record, came to the conclusion that the accident had occurred only due to the rash and negligent driving of the lorry by its driver and quantified the compensation payable to the claimant at Rs. 51,929/-. Not satisfied with the quantum, the claimant has come before this court.

5. The learned counsel for the Appellant as well as the Second Respondent/ Insurance Company have not advanced any arguments on the questions of negligence as well as liability. Hence, the facts necessary



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6. The learned counsel for the Appellant, by taking this Court to the discharge summaries, marked as Exhibit P3, and hospital case sheet, marked as Exhibit P4, submitted that even after the discharge, the claimant has been in continuous treatment for six months and the tribunal committed an error in not awarding any amount under the head loss of income during treatment period. The learned counsel further submitted that the claimant is entitled to compensation under various other heads like pain and suffering, loss of amenities, transportation expenses, and extra nourishment. However, the tribunal committed an error in awarding Rs. 50,000/- as lump sum under the said heads.

7. The learned counsel for the 2nd respondent/Insurance Company submitted that the claimant has not suffered any disability as indicated in Exhibit C1, Disability Certificate. Therefore, the amount awarded by the tribunal is just and proper.

8. Though in Exhibit C1, disability certificate issued by the Medical Board, the percentage of the disability has not been mentioned, it was noted that the claimant was suffering from recent memory



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impairment. There was also a noting in the disability certificate regarding low intellectual functioning. However, there is no evidence available on record to suggest that the low intellectual functioning was due to the accident.

9. It is seen from Exhibit-P3, Discharge Summary, the claimant was in hospital for 3 days. He suffered depressed fracture in the right frontal bone and fracture in ethmoid bone. However, in the discharge summary, it was clearly mentioned that during hospital stay, there was no neurological worsening and there was no further seizure episodes. Therefore, it is clear that the head injury suffered by the claimant was not serious one, having permanent neurological deficiency. However, it is seen from Exhibit-P4, Case Sheet, the claimant suffered head injury and he has been in continuous treatment as outpatient till January 2016. It is stated in the claim petition that the claimant was a labourer and loadman employed in TRV Cashews, Panruti. Though no documentary evidence has been produced to prove the income and avocation of the injured, taking into consideration the nature of the head injury suffered by him and the concrete documentary evidence available on record to suggest that he had



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been under treatment as outpatient nearly for six months, this Court feels that it would be appropriate to grant a loss of income for six months period.

10. Taking into consideration the date of accident, this Court is inclined to fix Rs.15,000/- as notional income for the injured and award a sum of Rs.90,000/- (15,000 x 6) towards the loss of income during treatment period. Exhibit P9, the photographs of the claimant would indicate that he has sustained ugly scar in his forehead. Taking into consideration Exhibit P3, discharge summary, Exhibit P4, case sheet and Exhibit P9, photographs, this Court feels that a sum of Rs.25,000/- each under the heads pain and suffering and loss of amenities would be just and reasonable. In addition to the above said amount, the claimant is entitled to Rs.5,000/- each under the heads transportation expenses and extra nourishment. The tribunal awarded a sum of Rs.1,929/- under the head medical expenses and the same is based on medical bills marked as Exhibit P5 and the same is confirmed.

11. In view of the discussions made earlier, the compensation awarded 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	50,000/-	25,000/-	Granted
2.	Loss of amenities		25,000/-	Granted
3.	Extra Nourishments		5,000/-	Granted
4.	Transport expenses		5,000/-	Granted
5.	Loss of income		90,000/-	Granted
6.	Medical expenses	1,929/-	1,929/-	Confirmed
	Total	51,929/-	1,51,929/-	Enhanced by Rs.1,00,000/-

12. With the above modifications, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.51,929/- is enhanced to Rs.1,51,929/-.The appellant is entitled to interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of realization. It is made clear that the claimant is not entitled to claim any interest for the delay period of 442 days. The second respondent /Insurance company is directed to deposit the enhanced award



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amount to the credit of MCOP No.3020 of 2015 on the file of the Motor Accidents Claims Tribunal/Special Sub Court, Cuddalore, 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. The appellant/claimant is permitted to withdraw the same along with interests and costs, less the amount if any, already withdrawn by filing a formal application before the Tribunal. No costs.

22.04.2025

Index:Yes/No
Internet:Yes/No
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To

1. Motor Accident Claims Tribunal
Special Sub Court, Cuddalore,
2. The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

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