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CMA.No.547 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 11.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.547 of 2025

R.Ramki

... Appellant

Vs.

1. R.Sankar @ Sivasankar

2. United India Insurance Company Ltd.,
No.2, Bhuvaneshwari Complex,
Dr.Sankaran Road, Namakkal 637 001.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 to enhance the compensation awarded in the judgment and decree in MCOP No.721 of 2019 dated 15.02.2024 on the file of the Sub Court, Motor Accident Claims Tribunal, Namakkal

For appellant : Mr.S.Sankar

For Respondents : Mr.J.Chandran for second respondent



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JUDGMENT

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

2. The first respondent remained absent before the Tribunal and hence, notice to him is dispensed with.

3. It is not in dispute that the appellant/claimant suffered injury in a road accident that had occurred on 14.04.2019. According to the claimant, while he was proceeding in his two wheeler on the left hand side of Namakkal-Senthamangalam Main road, near Railway over bridge, a Scorpio car belonging to the first respondent and insured with the second respondent, which was proceeding in front of the two wheeler of the victim, suddenly applied brake without any signal and hence, the two wheeler of the victim collided with the back side of the car. As a result of accident, the victim suffered injury in his face, forehead and left leg, etc. The claimant filed a claim petition before the Tribunal seeking compensation of Rs.20,00,000/-. The first



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respondent/owner of the car remained exparte before the Tribunal and the claim petition was contested by the insurance company by filing the counter, stating that the accident had occurred only due to the negligent on the part of the victim.

4. The Tribunal, based on the evidence available on record, came to the conclusion that the accident had occurred due to the negligence on the part of the driver of the car and directed the insurance company to pay a sum of Rs.7,52,589/- as compensation to the appellant/claimant. Not satisfied with the quantum of compensation awarded by the Tribunal, the claimant has come before this court.

5. Heard the learned counsel for the appellant and the second respondent/ insurance company.

6. Both the counsel for the appellant and the second respondent have not advanced any arguments on the questions of negligence and liability and therefore, the facts necessary for fixing negligence and liability have not been considered in the present appeal.



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7. The learned counsel for the appellant would submit that the accident had occurred in the year 2019. However, the Tribunal granted only a sum of Rs.5,000/- per percentage and the same requires enhancement. He further submits that the amounts awarded under the head loss of income during treatment period is also on lower side.

8. The learned counsel for the second respondent/ insurance company would submit that the claimant has not produced any documentary evidence to prove that he suffered any disability, however, the Medical Board issued disability certificate Ex.C1, assessing the disability at 51% and the same is on higher side. He further submits that the amount awarded under the head pain and sufferings is on higher side.

9. It is seen from the discharge summary Ex.P12 that the claimant suffered fracture on his left femur bone and left proximal tibia and he was treated with open reduction and internal fixation of left proximal tibia with LCP. The competent Medical Board assessed the disability suffered by the claimant at 51% and issued Ex.C1. Though it



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was argued by the learned counsel for the second respondent/insurance company that the percentage assessed by the Medical Board is on higher side, no steps have been taken by it before the Tribunal for re-assessment of the disability. In such circumstances, this court is inclined to accept the percentage of disability suffered by the claimant at 51%, as assessed by the Medical Board. Having regard to the date of accident, a sum of Rs.5,000/- awarded by the Tribunal per percentage is enhanced to Rs.8,000/- per percentage. Therefore, the claimant is entitled to Rs.4,08,000 (51 x 8000) under the head partial permanent disability.

10. The Tribunal fixed the notional income of the claimant at Rs.12,000/- per month and granted a compensation of Rs.48,000/- for four months under the head loss of income. However, taking into consideration that the accident had occurred in the year 2019, this court proceeds to fix notional income at Rs.16,500/- per month and a sum of Rs.66,000/- is granted for four months towards loss of income during treatment period.



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11. The amount of Rs.51,000/- awarded by the Tribunal towards pain and sufferings is on higher side and hence, the same is reduced to Rs.40,000/-.

12. The Tribunal has not awarded any amounts under the heads attender charges and extra nourishment and hence a sum of Rs.10,000/- is awarded towards attender charges and a sum of Rs.15,000/- is awarded towards extra nourishment.

13. The compensation awarded by the Tribunal towards transportation charges, medical bills are based on the documents produced before the Tribunal and hence, the same are confirmed. Further the award amount of Rs.5,000/- under the head damages to cloths is set aside.

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

Sl.	Description	Amount	Amount	Award
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No		awarded by Tribunal (Rs)	awarded by this Court (Rs)	confirmed or enhanced or granted
1.	Permanent or Partial disability	2,55,000	4,08,000	enhanced
2.	Loss of income	48,000	66,000	enhanced
3.	Pain and sufferings	51,000	40,000	reduced
4.	Attender Charges	-	10,000	granted
5.	Extra nourishment	-	15,000	granted
6.	Transportation charges	40,000	40,000	confirmed
7	Medical bills	3,53,589	3,53,589	confirmed
8	Damages to cloths	5,000	-	set aside
	Total	7,52,589	9,32,589	enhanced by 1,80,000

15. With the above modifications, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.7,52,589/- is hereby enhanced to **Rs.9,32,589/-** together with interest at 7.5% per annum from the date of petition till the date of deposit.

14. 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.



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On such deposit, the appellant/claimant shall be permitted 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
Speaking order : Yes/No
Neutral citation : Yes/No
mst

To

1. The Subordinate Court,
Motor Accident Claims Tribunal,
Namakkal.
2. The Section Officer,
V.R. Section, Madras High Court.



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S.SOUNTHAR, J.

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