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CMA No. 399 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-08-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 399 of 2023

S.Magesh

Appellant

Vs

1. V.Lokesh

2.National Insurance Co.Ltd.
First Floor, Sharadamma Building,
Byepass Road, Hosur.

Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicles Act, praying to enhance the compensation amount fixed in the judgment and decree in MCOP No. 442 of 2020 dated 28.11.2022 on the file of the Motor Accident Claims Tribunal, Special Sub Judge at Krishnagiri.

For Appellant: Mr.I.Siddiq For
M/s.Dass And Viswa Associates

For Respondents: Mr. C.Paranthaman For R2
R1 - No Such Addressee



JUDGMENT

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The appellant not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.442 of 2020, dated 28.11.2022 has preferred this appeal seeking for enhancement of compensation.

2.The case of the petitioner is that on 05.04.2019 when the petitioner proceeding in a two wheeler bearing Regn. No. TN-70 H-8832 from Enusonai village to Shoolagiri at 04.00 p.m. near Unichetti turning, a Tata India V2 car bearing Regn. No. TN-70-V-1309 driven by its driver in a rash and negligent manner, came in the opposite direction, dashed on the petitioner's two wheeler and caused an accident. Due to which, the petitioner sustained injuries, for which he underwent treatment in the hospital. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation of Rs.3,00,000/-.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the



accident had taken place only due to the rash and negligent driving on the part of the rider of the 1st respondent. Having come to such a conclusion, the

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Tribunal fixed the total compensation payable at Rs.1,20,000/- under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Disability	75,000
2.	Medical expenses	Nil
3.	Future medical expenses	nil
4.	Loss of income	9,000
5.	Pain and sufferings	10,000
6.	Transportation	5,000
7.	Additional nourishment	10,000
8.	Damages to cloths	1,000
9.	Attender charges	5,000
10.	Loss of amenities	5,000
	Total	1,20,000

4.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.



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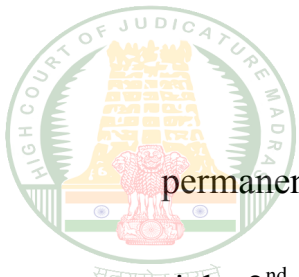
5. The appellant not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal before this Court seeking for enhancement of compensation.

6. The learned counsel for appellant would submit that the medical board assessed the disability as 35% of partial disability, but the tribunal had fixed only 15% of disability, which needs interference. Hence, he prayed to enhance the compensation.

7. The learned counsel for 2nd respondent would submit that at the time of accident, he was running a poultry farm and there is no proof for the income derived by him around Rs.9000/-. Hence, the tribunal has rightly fixed the income of the petitioner as well as rightly fixed the disability at 15% on considering the nature of injury, which needs no interference of this court.

8. Heard and considered rival submissions made by both learned counsel for appellant as well as 2nd respondent and perused materials available on record.

9. Considering both side submissions and on perusal of the disability certificate, the Medical Board assessed the disability of 35% of partial



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permanent disability, which is serious in nature and he had also a fracture of right 2nd metatarsal bone and he had undergone treatment for the period of 5 months in hospital, but without considering 35% of partial permanent disability, the tribunal had erroneously reduced the disability at 15%, which needs interference. Considering the fact that he has sustained a fracture of a 2nd metatarsal bone in the right foot and considering the nature of injury, this Court is inclined to fix the disability as 30% of partial permanent disability.

10. Furthermore, at the time of accident, the appellant was aged about 28 years and he is running a poultry farm, from which, he would have earned per day a sum of Rs.600/- and derived income of Rs.18,000/- per month. So, considering the fact that the accident was happened in the year of 2019 and considering the cost of living at that time as well as considering his age, this court is inclined to enhance the sum awarded towards notional monthly income from Rs.9000/- to Rs.18,000/-.

11. On perusal of award, it reveals that due to the injuries sustained in the accident, the appellant had sustained fracture of 2nd metatarsal bone in the right foot, as a result of which, he was not able to move outside and nearly about six



months, he was not able to do his work as before. Hence, on seeing the grievous injury as well as considering his disability of fracture of 2nd metatarsal bone in the right foot, this Court is inclined to modify the period for loss of income as six months.

12. On seeing the facts, he has undergone surgeries during the treatment period and also took treatment as outpatient for some days in various hospital, thereby he has sustained severe pain. Considering that, the sum awarded for pain and sufferings is to be increased from Rs.10,000/- to Rs.25,000/- and the transportation charges is also enhanced from Rs.5,000/- to Rs.10,000/-. As he had suffered with fracture of 2nd metatarsal bone in the right foot, he was in need of more nourishment. Hence, this Court is inclined to enhance the sum awarded towards additional nourishment from Rs.10,000/- to Rs.15,000/-. Considering the fact that during the treatment period, the petitioner was in hospital for more than 60 days, so, he required an attender. Considering that, the attender charges is enhanced from Rs.5,000/- to Rs.18,000/-. Due to the accident, his cloths were also damaged, for which, the tribunal has awarded only a sum of Rs.1000/-. Hence, this Court is inclined to enhance the sum awarded towards



damages to cloths as Rs.1000/- to Rs.2000/-. Considering the nature of injury

and other relevant factors, this Court is inclined to enhance the sum awarded

towards loss of amenities from Rs.5,000/- to Rs.10,000/-.

13.In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:

S.No	Compensation awarded under the head	Amount awarded by the tribunal (in Rs.)	Amount (in Rs.)	Amount confirmed or granted or enhanced
1.	Disability (Rs.7000 x 30%)	75,000	2,10,000	enhanced
2.	Medical expenses	Nil		
3.	Future medical expenses	Nil		
4.	Loss of income (Rs.15,000/- x 6)	9,000	90,000	enhanced
5.	Pain and sufferings	10,000	25,000	enhanced
6.	Transportation	5,000	10,000	enhanced
7.	Additional nourishment	10,000	15,000	enhanced
8.	Damages to cloths	1,000	2,000	enhanced
9.	Attender charges	5,000	18,000	enhanced
10.	Loss of amenities	5,000	10,000	enhanced
	Total	1,20,000	3,80,000	enhanced

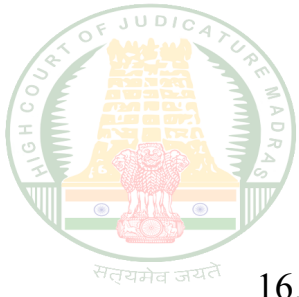
14.The compensation awarded by the tribunal at Rs.1,20,000/- is enhanced to Rs.3,80,000/-. The second respondent insurance company is



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directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of eight weeks from the date of receipt of copy of this judgment. On such deposit, the appellant is permitted to withdraw the enhanced award amount now determined by this court along with interest and costs, less the amount if any, already withdrawn. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

15. Furthermore, on perusal of records, the fact reveals that at the time of accident, there is a violation of policy condition, since rider of two wheeler not possessed valid license, due to which, the 2nd respondent was completely exonerated from his liability. However, the insurance policy is available at the time of accident. So, there is no violation of policy condition. Therefore, the award passed by the tribunal is modified. Accordingly, the 2nd respondent is liable to pay the compensation and they are permitted to recover the same from the 1st respondent owner.



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16. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Motor Accident Claims Tribunal, Special Subordinate Judge, Krishnagiri.
2. Section Officer, VR Section, Madras High Court.



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T.V.THAMILSELVI J.

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