



CMA.No.3707of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 05.02.2025

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA.No.3707 of 2021

N.G.G.Kanesan

... Appellant

Vs.

1.T.Chandrasekar
2.United India Insurance Company Limited,
Silingi Building,
No.134, Greams Road,
Chennai – 600 006.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed in MCOP.No.3822 of 2014, dated 17.09.2019 by the III Judge, Small Causes Court (Motor Accident Claims Tribunal), Chennai.

For Appellant : Mr.P.C.Ramesh

For Respondents : Mr.J.Micheal Visuwasam for R2
No such person for R1

J U D G M E N T

The appellant/injured claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal (



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III Judge, Small Causes Court), Chennai in MCOP.No.3822 of 2014, dated 17.09.2019, has come by way of this Civil Miscellaneous Appeal.

2. The appellant/claimant met with an accident on 22.01.2014, when he was riding his motor cycle. Since no arguments were advanced on the question of negligence and liability, necessary facts leading to the fixation of negligence and liability by the Tribunal are not discussed in this order.

3. Heard the learned counsel for appellant/claimant and the learned counsel for second respondent/Insurance Company.

4. The learned counsel appearing for the appellant/claimant submits that the Medical Board issued disability certificate fixing disability at 65% under Ex.C1 and the Tribunal without any basis reduced the same to 5%. Therefore, the amount fixed by the Tribunal under the head of loss of earning capacity with partial disability requires enhancement.



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5. The learned counsel also submitted that though the claimant produced the medical bills for more amount the Tribunal has accepted only few and fixed the compensation under the head of medical expenses only for a sum of Rs.17,086/-.

6. The learned counsel appearing for the second respondent/Insurance Company by taking this Court to the reason given by the Tribunal contended that the disability of 65% assessed by the medical board was very much on higher side and therefore, the Tribunal rightly came to the conclusion that the victim suffered disability of 5%. The learned counsel further by relying on the reasoning of the Tribunal submitted that the Medical Bills produced by the claimant were doubted and rightly rejected by the Tribunal and the same requires no interference.

7. This Court carefully considered the submissions made on either side and the materials available on record.

8. A perusal of Ex.C1 would indicate that the Medical Board



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had given opinion that due to “Intercondylar fracture, right Humerus” bone, the claimant suffered a disability of 65%. Now, we have to see whether disability suffered by the claimant interfered with avocation and his earning capacity was affected. Even, as per the claim petition, the claimant was doing catering service at the time of accident in the name and style of “Srinivasa Food Service”. While PW.1 was examined before the Tribunal, he categorically admitted that he employed nearly ten persons and carried on catering service at the time of accident. He also admitted, even after accident, he is continuing catering business and even at the time of his examination, he employed ten persons. Therefore, it is clear, the disability suffered by him does not affect the catering business, he continues to do the same with the assistance of employees. In such case, the Tribunal ought not have applied multiplier method. Though this Court does not agree with the view taken by the Tribunal, reducing the disability assessed by the Medical Board, in view of the reasons mentioned above, this Court is not inclined to apply multiplier method. Further, the claimant is entitled to compensation on percentage basis and as per Ex.C1, claimant was assessed to 65% disability. The accident had taken place in the year 2014. Therefore, the claimant is entitled to Rs.5,000/- for each percentage of the disability.



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Therefore, the claimant is entitled to Rs.3,25,000/- under the head of partial permanent disability.

9. Though the learned counsel appearing for the appellant vehemently contended that the medical bills produced by the claimant has not been taken into consideration, a perusal of Ex.P6 series of medical bills produced by the claimant would show that the claimant had taken medical treatment in VSR Ortho Hospital, Kancheepuram and Kavitha Ortho and Multi Specialty Hospital for the very same period. By referring to this discrepancy in the consolidated bill issued by VSR Ortho Hospital dated 27.01.2014 for a sum of Rs.47,900/-, the Tribunal rightly rejected the same. Therefore, the reasoning given by the Tribunal for rejection of some medical bills produced by the petitioner is acceptable. However, the claimant is entitled to a sum of Rs.30,000/- as against 20,000/- towards pain and suffering. Having regard to the nature of the injuries suffered by him and the period of treatment, the compensation awarded by the Tribunal under the head of attender charges at Rs.2,700/- is increased as Rs.10,000/-. The other amounts awarded by the Tribunal on various heads are confirmed.



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10 In the light of the above discussion, this Court modifies the

compensation in the following manner:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)
1.	Pain and sufferings	20,000/-	30,000/-
2.	Extra nourishment expenses	10,000/-	10,000/-
3.	Loss of earning	3,15,000/-	-
4.	Attender Charges	2,700/-	10,000/-
5.	Transport and Medical Expenses	17,086/-	17,086/-
6.	Damages to Clothes	1,000/-	1,000/-
7.	Partial Permanent Disability	-	3,25,000/-
	Total	3,65,786/-	3,93,086/-

11. In view of the discussion made earlier, the claimant is entitled to a sum of Rs.3,93,100/- (rounded off) as against a sum of Rs.3,65,786/- awarded by the Tribunal. The claimant is entitled to interest at the rate of 7.5% on the enhanced award. The 2nd respondent is directed to deposit the enhanced amount with interest within a period of four weeks



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from the date of a copy of this judgment, to the credit of MCOP.No.3822 of 2014, on the file of the Motor Accident Claims Tribunal, III Judge, Small Causes Court Chennai. On such deposit, the appellant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount, if any, already withdrawn, by making formal application before the Tribunal.

12. Accordingly, this Civil Miscellaneous Appeal is partly allowed. No costs.

05.02.2025

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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To
1.The Motor Accident Claims Tribunal
III Judge, Small Causes Court , Chennai.
2.2.The Section Officer
VR Section,
High Court, Madras.

S.SOUNTHAR, J.



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