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C.M.A.No.1356 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 13.03.2025**

**CORAM**

**THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

**C.M.A.No.1356 of 2022**  
**and C.M.P.No.9834 of 2022**

Reliance General Ins. Co. Ltd.  
2<sup>nd</sup> Floor, Shri Abirami Towers, 43B, Cowly Brown road,  
R.S.Puram, Coimbatore – 02. ... Appellant

vs.

1.R.Rangarajan  
Rep. by Power Agent-Mr.R.Satish

2.Rasheedha Banu ... Respondents

**PRAYER:** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Decree and Judgment dated 13<sup>th</sup> December 2021 passed in M.C.O.P.No.694 of 2016, by the Motor Accident Claims Tribunal, Special Sub Court at Coimbatore.

For Appellant : Mrs.C.Bhuvanasundari

For R1 : Mr.S.Saravanan

For R2 : Notice Dispensed With



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## **J U D G M E N T**

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This Civil Miscellaneous Appeal has been filed by the Appellant/Insurance Company challenging award passed by the Motor Accident Claims Tribunal in M.C.O.P.No.694 of 2016, dated 13.12.2021.

2. It is the case of the 1<sup>st</sup> respondent/claimant that he suffered head injury in a road accident that had occurred on 28.01.2016 near Coimbatore, Thadagam Road to Thiruvankadasamy Road Junction. According to him, he was driving his two wheeler bearing Registration No.TN-37-CE-6496 from R.S.Puram to Gandhipuram. At that point of time, the 2<sup>nd</sup> respondent herein came in her two wheeler bearing Registration No.TN 37 AP 8192 in a rash and negligent manner and dashed against the two wheeler of the 1<sup>st</sup> respondent/claimant. As a result of the said accident, the claimant suffered head injury and had been in hospital for several days. Therefore, a claim petition was filed seeking compensation of Rs.23,50,000/- against the 2<sup>nd</sup> respondent/owner-cum-driver of the offending vehicle and the appellant/the insurer of the offending vehicle.



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3. The 2<sup>nd</sup> respondent herein remained *exparte* before the Tribunal and hence, notice to her is dispensed with. The Appellant/Insurance Company alone filed counter and resisted the claim petition on the ground that accident had occurred only due to the rash and negligence of driving of two wheeler by the 1<sup>st</sup> respondent/claimant.

4. Before the Tribunal, the Power Agent of the 1<sup>st</sup> respondent-claimant was examined as PW.1 and yet another witness was examined as PW.2. On behalf of the claimant, 15 documents were marked as Exs.P1 to P15. On behalf of the Insurance Company, no witness was examined and no document was marked. The Disability Certificate issued by the Medical Board was marked as Ex.C1.

5. 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 offending vehicle by the 2<sup>nd</sup> respondent. The compensation amount payable to the 1<sup>st</sup> respondent/claimant was quantified at Rs.12,30,416/-. Aggrieved by the same, the insurer of the offending vehicle has come before this Court with this appeal.



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6. The learned counsel appearing for the Appellant/Insurance

Company would submit that the claimant suffered only 3% disability.

However, the Tribunal awarded exorbitant sum of Rs.2,00,000/- under the head of pain and suffering and Rs.1,50,000/- under the head loss of amenities and the same need to be set aside.

7. The learned counsel appearing for the 1<sup>st</sup> respondent/claimant would submit that the claimants suffered head injury and he was in hospital for nearly 36 days. Taking into consideration the prolonged hospitalisation, the Tribunal was justified in awarding a sum of Rs.2,00,000/- under the head pain and suffering and Rs.1,50,000/- under the head loss of amenities.

8. It is seen from the Discharge Summary marked as Ex.P11 and Wound Certificate Ex.P7, the claimant suffered head injury and he underwent surgery for treating right fronto-temporo-parietal decompressive craniectomy with evacuation SDH later, he was admitted in hospital twice for the purpose of treatment of post cranioplasty right fronto temporo parietal subgaial and extra axial acute bleed. Totally, the claimant has been in hospital for nearly 36 days. The Medical Board which examined the



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claimant fixed the percentage of disability only at 3%. Therefore, it is clear that the claimant has not suffered any major disability due to head injury suffered by him. When there is no major disability affecting the day-to-day life of the victim, the Tribunal was not justified in awarding a sum of Rs.1,50,000/- under the head loss of amenities. Taking into consideration the nature of injury suffered by the claimant and the disability suffered by him, the said amount is reduced to Rs.40,000/-.

9. Taking into consideration the prolonged hospitalisation, this Court feels a sum of Rs.50,000/- would be appropriate towards the head loss of pain and suffering. Hence, the amount of Rs.2,00,000/- awarded by the Tribunal under the head pain and suffering is reduced to Rs.50,000/-. The amount of Rs.7,36,416/- awarded by the Tribunal towards Medical Expenses based on the medical bills and the same is confirmed. For the 3% disability, the Tribunal awarded a sum of Rs.15,000/- at the rate of Rs.5,000/- per percentage, the same is confirmed. The amount awarded by the Tribunal under various other heads like Extra Nutrition, Transportation Expenses, Attender Charges, Loss of Income during treatment period etc., are confirmed. The amount of Rs.3,000/- awarded under the head loss to the

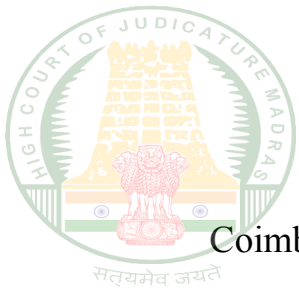


clothes is set aside. Accordingly, the award passed by the Tribunal is

modified as follows:-

| Sl. No.      | Description            | Compensation awarded by the Tribunal | Compensation awarded by this Court | Remarks                         |
|--------------|------------------------|--------------------------------------|------------------------------------|---------------------------------|
| 1.           | Pain and Suffering     | Rs.2,00,000/-                        | Rs.50,000/-                        | <b>Reduced</b>                  |
| 2.           | Loss of Estate         | Rs.1,50,000/-                        | Rs.40,000/-                        | <b>Reduced</b>                  |
| 3.           | Extra Nutrition        | Rs.30,000/-                          | Rs.30,000/-                        | <b>Confirmed</b>                |
| 4.           | Transport Expenses     | Rs.10,000/-                          | Rs.10,000/-                        | <b>Confirmed</b>                |
| 5.           | Attender Charges       | Rs.50,000/-                          | Rs.50,000/-                        | <b>Confirmed</b>                |
| 6.           | Damages to the clothes | Rs.3,000/-                           | -                                  | <b>Set aside</b>                |
| 7.           | Medical Expenses       | Rs.7,36,416/-                        | Rs.7,36,416/-                      | <b>Confirmed</b>                |
| 8.           | Disability             | Rs.15,000/-                          | Rs.15,000/-                        | <b>Confirmed</b>                |
| 9.           | Loss of Income         | Rs.36,000/-                          | Rs.36,000/-                        | <b>Confirmed</b>                |
| <b>Total</b> |                        | <b>Rs.12,30,416/-</b>                | <b>Rs.9,67,416/-</b>               | <b>Reduced by Rs.2,63,000/-</b> |

10. In view of the discussions made earlier, the award passed by the Tribunal is reduced to Rs.9,67,416/- from Rs.12,30,416/-. The Appellant/Insurance Company is directed to deposit the modified award amount of Rs.9,67,416/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, after deducting the amount already deposited, if any, to the credit of M.C.O.P.No.694 of 2016 on the file of the Motor Accident Claims Tribunal, Special Sub Court at



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Coimbatore, within a period of six weeks from the date of receipt of copy of this judgment. On such deposit, the 1<sup>st</sup> respondent/claimant is entitled to withdraw the award amount by making formal application.

11. With the above directions, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, the connected civil miscellaneous petition is closed.

**13.03.2025**

Index :Yes / No  
Speaking order :Yes / No  
Neutral Citation :Yes / No  
dm

To

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



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**S.SOUNTHAR, J.**

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