



CMA.No.1281 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :30.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.1281 of 2025

Mahalingam

... Appellant

Vs.

1.Melvin Prasath

2.Bajaj Allianz General Insurance Company Limited

GE Plaza, Airport Road,

Yerowada,

Pune-411 006

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the award made in M.C.O.P.No.228 of 2013 dated 06.03.2023 on the file of the Motor Accident Claims Tribunal, Subordinate Judge Court at Sankari.

For Appellant : Mr.V.Balamurugan

For Respondents : M/s.R.Sree Vidhya for R2
R1-Notice dispensed with

JUDGMENT

Aggrieved by 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, he was riding Bajaj Platina vehicle on 04.01.2013 in Sangagiri to Salem Main Road. At that point of time, a car belonged to the first respondent, insured with the second respondent, came in a rash and negligent manner and dashed against the two-wheeler from behind. As a result of the accident, the claimant suffered a fracture in the right knee and sustained injuries all over the body. Hence, the claim petition was filed seeking compensation of Rs.6,00,000/-.

3. The first respondent remained ex-parte before the Tribunal and the claim petition was contested by the insurer of the car by filing counter. It was the case of the insurer before the Tribunal that the driver of the car did not possess a valid driving license at the time of accident. The 2nd respondent also denied the age, avocation and income of the injured claimant and sought for dismissal of 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 negligence on the part of the driver of the car insured with the second respondent. The Tribunal also found that there was no valid driving license for the



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driver of the car at the time of accident and hence, passed an order for pay and recovery. The compensation payable to the claimant was quantified at Rs.4,49,240/-. Not satisfied with the quantum of compensation, the claimant has come before this Court.

5. Though very many grounds are raised in the grounds of appeal, at the time of argument, the learned counsel for the appellant/claimant only argued that the claimant was in hospital for nearly 32 days and the Tribunal committed an error in granting compensation under the head loss of income during treatment period only for two months.

6. The learned counsel for the 2nd Respondent/ Insurance Company submitted that having regard to the nature of the injury suffered by the claimant, the Tribunal was justified in granting loss of income for two months at the rate of Rs.10,000/- per month.

7. The Tribunal, based on Ex.P6 and Ex.P7, Discharge Summaries, rendered a finding that the claimant was in hospital from 05-01-2013 to 28-01-2013 and 19-10-2013 to 27-10-2013. Therefore, it is clear that the claimant was in hospital initially for a period of 23 days and then, for a period of 9 days. The claimant suffered a fracture in his right knee. Taking



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into consideration the nature of the injury and the period of hospitalization, this Court feels that the claimant is entitled to loss of income for 3 months at the rate of Rs.10,000/- per month. Therefore, the claimant is entitled to Rs.30,000/- under the head loss of income.

8. If we look the split-up details of the award passed by the Tribunal, the claimant was given Rs.30,000/- under the head loss of income. In addition to the above-said amount, another sum of Rs. 20,000/- was awarded under the head loss of income for attendant. Therefore, in total, the claimant was given Rs.50,000/- under the head Loss of Income during treatment period. Though this Court comes to the conclusion that the claimant is entitled only Rs.30,000/- under the head Loss of Income, since no appeal has been filed by the insurance company, this Court is not inclined to interfere with the award passed by the Tribunal. Hence, Civil Miscellaneous Appeal stands dismissed. No costs.

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Index:Yes/No
Internet:Yes/No
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To

1. Motor Accidents Claims Tribunal
The Subordinate Judge, Sankari.
2. The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

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