



C.M.A.No.603 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 17.04.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.603 of 2022

Ramachandran

... Appellant

VS.

1.Saravanan

2.Udhaya Kumar

3.Divisional Manager,

United India Insurance Company Limited,

TP Claims Hub, No.81, Katpadi Road,

T.K.M.Complex, 2nd floor, Vellore-632 004.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to enhance and to set aside the award dated 21.02.2020 and made in M.A.C.T.O.P.No.701 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Tiruvannamalai.

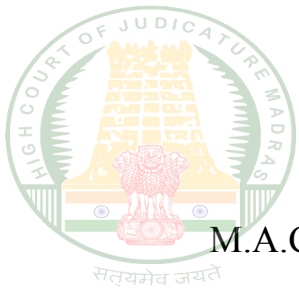
For Appellant : Mr.F.Terry Chella Raja

For R3 : M/s.R.Sree Vidhya

For R1 and R2 : No Appearance

J U D G M E N T

Not satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, Special Sub Court, Tiruvannamalai in



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M.A.C.T.O.P.No.701 of 2017, dated 21.02.2020, the injured/claimant has come before this Court.

2. According to the appellant/claimant, on 24.02.2017, he travelled as a pillion rider in a Hero Honda Splendor Pro two wheeler driven by one Lakshmanan. When the driver of the two wheeler was proceeding slowly and steadily, the TATA ACE Vehicle belongs to the 1st respondent and insured with the 3rd respondent came in a rash and negligent manner and dashed against the two wheeler. As a result of the accident, the claimant sustained fracture of acetabulum, laceration over the right leg below knee, laceration in the left elbow and other multiple grievous injuries all over the body. He was treated in hospital by internal fixation. Therefore, the claim petition was filed seeking compensation of Rs.5,00,000/-.

3. The respondents 1 and 2 remained *exparte* before the Tribunal and the claim petition was opposed by the 3rd respondent-insurance company mainly on the ground that the accident had occurred only due to the negligence on the part of the driver of the two wheeler.



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4. Before the Tribunal, the appellant/claimant was examined as PW.1

and two other witnesses were examined as PW.2 and PW.3 and 20 documents were marked as Exs.P1 to P20 on behalf of the claimant. On behalf of the 3rd respondent/Insurance Company, no witness was examined and no document was marked. The Disability Certificate issued by the Medical Board to the claimant 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 the TATA ACE Vehicle by its driver. The compensation payable to the claimant was quantified at Rs.5,66,600/-. Not satisfied with the award, the injured/claimant has come before this Court.

6. The learned counsel appearing for the appellant as well as learned counsel appearing for the 3rd respondent-Insurance Company have not advanced any arguments on the questions of negligence and liability. Therefore, facts necessary to decide those questions are not discussed in this judgment.



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7. The learned counsel appearing for the appellant/claimant would submit that the claimant was doing laundering work and notional income of Rs.6,500/- fixed by the Tribunal was very much on lower side.

8. The learned counsel appearing for the 3rd respondent/Insurance Company would submit that the claimant has not produced any documentary evidence to prove the avocation and income of the deceased. Therefore, the Tribunal was justified in fixing the notional income at Rs.6,500/- per month.

9. In the claim petition, the claimant had stated that he was an agricultural coolie and was earning a sum of Rs.20,000/- per month. However, in order to prove the avocation and income, the claimant has not produced any documentary evidence. The claimant, when he was examined as a witness before the Tribunal had stated that he was engaged in laundry work. The claimant has not taken any consistent stand with regard to the avocation. In the pleading, he claimed himself as an agricultural coolie. However, in his evidence, he deposed, as if he was engaged in laundry work. Even if he is treated as an agricultural labourer, taking into



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consideration the facts and circumstances of the case, this Court can fix reasonable amount as a notional income. In the case on hand, the accident had occurred in the year 2017. Taking into consideration the date of accident and the prevailing cost of living, this Court is inclined to fix Rs.15,000/- per month as notional income of the injured/claimant.

10. In the Disability Certificate issued by the Competent Medical Board, the disability of the claimant was fixed at 50%. It is seen from the said document that claimant suffered fracture in right acetabulum and he was treated with internal fixation. Since the claimant is required to do manual work, the fracture in the right hip and internal fixation will certainly interfere with his avocation. The Tribunal rightly applied multiplier method.

11. Based on documentary evidence before the Tribunal, the age of the claimant was fixed at 51 years. Therefore, the claimant is entitled to 10% enhancement towards future prospects. The applicable multiplier is 11. Therefore, the amount under the head disability is fixed at Rs.10,89,000/- (Rs.15,000 x 1.1 x 12 x 11 x 50/100).



12. It is seen from the Discharge Certificate marked as Ex.P13, the claimant was in hospital from 25.02.2017 to 10.04.2017, nearly 45 days.

Therefore, the Tribunal was justified in granting Rs.50,000/- under the head pain and suffering and Rs.30,000/- under the head loss of amenities. The amount awarded by the Tribunal under various other heads like nutritional expenses, attender charges, transportation expenses and medical expenses are reasonable. Therefore, they are affirmed.

13. In view of the discussions made earlier, 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.	Permanent Disability	Rs.4,29,000/-	Rs.10,89,000/-	Enhanced
2.	Pain and Suffering	Rs.50,000/-	Rs.50,000/-	Confirmed
3.	Loss of Amenities	Rs.30,000/-	Rs.30,000/-	Confirmed
4.	Extra Nourishment and Damages	Rs.25,000/-	Rs.25,000/-	Confirmed
5.	Attender Charges	Rs.15,000/-	Rs.15,000/-	Confirmed
6.	Transportation Charges	Rs.10,000/-	Rs.10,000/-	Confirmed
7.	Medical Expenses	Rs.7,600/-	Rs.7,600/-	Confirmed
Total		Rs.5,66,600/-	Rs.12,26,600/-	Enhanced by Rs.6,60,000/-



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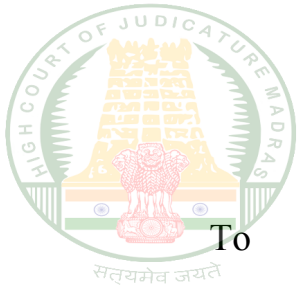
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14. Accordingly, the total compensation amount payable to the claimant is enhanced to Rs.12,26,600/- from Rs.5,66,600/-. The 3rd Respondent/Insurance Company is directed to deposit the enhanced award amount of Rs.12,26,600/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, to the credit of M.A.C.T.O.P.No.701 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Tiruvannamalai, within a period of six weeks from the date of receipt of copy of this judgment. On such deposit, the claimant is permitted to withdraw the award amount by making formal application before the Tribunal.

15. With the above direction, the Civil Miscellaneous Appeal is partly allowed. No costs.

17.04.2025

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

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1.The Motor Accident Claims Tribunal,
Special Sub Court, Tiruvannamalai.

2.Divisional Manager,
United India Insurance Company Limited,
TP Claims Hub, No.81, Katpadi Road,
T.K.M.Complex, 2nd floor, Vellore-632 004.

3.The Section Officer,
VR Section, High Court,
Madras.



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S.SOUNTHAR, J.

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