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C.M.A. No.2085 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 01.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE P.DHANABAL

C.M.A.No.2085 of 2025

Saravanakumar S/o. Raja.

... Appellant / Petitioner

vs.

Ganesan (died)

1. National Insurance Co., Ltd.,
Branch office at No.266, N. Junction Main Road,
Near Five Roads,
Salem - 2.

2. Chinnammal W/o. Sengodagounder

3. Valarmathi W/o.Late Ganesan

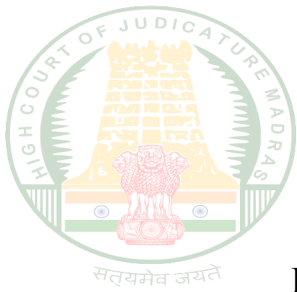
4. Manikandan S/o. Late Ganesan

5. Sasikumar S/o. Late Ganesan

.. Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the decree and judgment dated 07.07.2022 passed in M.C.O.P. No.361 of 2014 on the file of the Motor Accident Claims Tribunal / Subordinate Court, Tiruchengode.

For Appellant : Mr. T.S. Arthanareeswaran



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For Respondents : Mr. S. Vadivel [for R1]

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JUDGMENT

(Judgment of the Court was made by P.DHANABAL,J.)

This Civil Miscellaneous appeal has been preferred as against the fair and decreetal order passed by the Motor Accident Claims Tribunal / Subordinate Court, Tiruchengodu in M.C.O.P. No.361 of 2014 dated 07.07.2022, wherein the appellant herein has filed a petition for compensation through his guardian mother for the injuries sustained by him in a Road accident. The Tribunal passed an Award by granting compensation of Rs.28,94,000/- with interest @ 7% per annum from the date of the petition till the date of deposit.

2. With the consent of both sides' counsels, this petition has been taken up for final disposal at the admission stage itself.

3. Before the Tribunal, the appellant has filed a petition stating that on 11.07.2002 at about 3 p.m., the appellant was travelling as a pillion rider in a two wheeler bearing Registration No.TN28-S-4971. At that time, the driver of the two wheeler rode the vehicle in a rash and negligent manner and dashed against a compound wall near Aliyaar check post,



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Chinnarpathi. Due to that impact, the appellant was thrown out from the motor cycle and sustained injuries in all over his body and he was admitted in the K.G. Hospital as inpatient. The accident took place due to the negligence on the part of the rider of the two wheeler and FIR has been registered as against the rider of the two wheeler. At the time of accident, the appellant was aged about 23 years and he was a II year MBA Student in Tamil Nadu Engineering College, Karumathampatti, Coimbatore. Due to the injuries sustained by him, he lost his concious. Therefore, his mother filed this petition as guardian to the appellant. They incurred huge amount for medical expenses and thereby, claimed a compensation of Rs.25 lakhs.

4. The 2nd respondent has filed a counter before the Tribunal stating that the petitioner has to prove the negligence and the injuries sustained by him. The age of the petitioner, manner of accident, injuries and expenses incurred are to be proved by way of acceptable evidences. The amount claimed by the petitioner is too high. Therefore, the petition is liable to be dismissed.

5. Based on the above pleadings, the Tribunal has framed the following *points for determination*:



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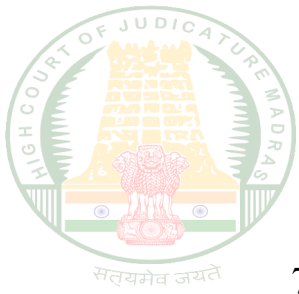
5.1. Whether the accident took place due to the negligence on the part of the driver of the vehicle of the 1st respondent.

5.2. Whether the petitioner sustained permanent disability. If so, what is the percentage.

5.3. Whether the petitioner is entitled for compensation, if so, what is the quantum.

5.4. Who has to pay compensation amount to the petitioner.

6. Before the Tribunal, on the side of the claimant, PW1 and PW2 were examined and Ex.P.1 to Ex.P.14 were marked. On behalf of the respondent, no oral or documentary evidences were adduced. After evaluating the oral and documentary evidences available, the Tribunal has passed an Award directing the 2nd respondent Insurance Company to pay a sum of Rs.28,94,000/- with interest @ 7% from the date of the petition till the date of deposit of the amount. Aggrieved by the said Award, the appellant / claimant has preferred this Civil Miscellaneous Appeal on the ground of 'inadequate compensation'.

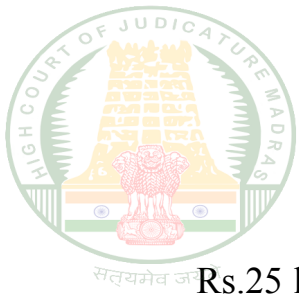


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7. The learned counsel appearing for the appellant would submit that on 11.07.2002 at about 3 p.m., when he was riding as a pillion rider in a two wheeler, which was insured with the 2nd respondent Insurance company, met with an accident due to the negligence of the rider of the motor cycle and sustained injuries. Due to which, he sustained permanent disability and he was unable to move and he lost his eye sight and he was affected with paralysis and the Medical Board has assessed his disability as 85%. The appellant was aged about 23 years at the time of accident and he was a II year MBA student of Tamil Nadu Engineering College. However, the Tribunal fixed the monthly income as Rs.8,000/- and added 40% of the future prospects. The notional income fixed by the Tribunal is on lower side. The Tribunal ought to have fixed at least Rs.18,000/- towards notional income. This Court also fixed Rs.18,000/- for the I year Engineering Student, who died in an accident in the year 2020. The appellant also spent Rs.6,30,858/- towards his medical expenses. But the Tribunal, without considering the same, awarded only a meagre amount. Therefore, he preferred this appeal.

8. The learned counsel appearing for the 1st respondent Insurance Company would submit that the claim amount before the Tribunal was only



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Rs.25 lakhs, but the Tribunal awarded a sum of Rs.28,94,000/-, which is in excess to the claimed amount. The Tribunal has fixed the notional income as Rs.8,000/- per month and the same is a nominal one. The Tribunal also accepted the medical bills produced by the appellant. In all respect, the Award is just and a fair compensation. Therefore, the present appeal is liable to be dismissed.

9. This Court heard the both sides and perused the entire materials available on record.

10. Upon hearing the both sides' counsels and perusing the entire materials, the *point for determination* in this appeal is that "***whether the compensation awarded by the Tribunal is just and fair compensation***".

11. In this case, there is no dispute in respect of the involvement of the vehicle in the accident and the appellant sustained injuries due to the accident. According to the appellant, he was a II year MBA student in an Engineering College and he was aged about 23 years at the time of accident and the same was also not denied by the respondents. The Tribunal fixed the notional income as Rs.8,000/-. According to the appellant, the said



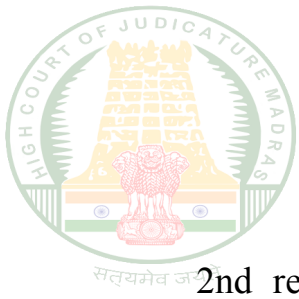
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notional income fixed by the Tribunal is on lower side and the Tribunal ought to have fixed at least Rs.18,000/- as notional income. Even as per the the judgment of this Court in **Andal and ors vs. Avinav Kannan and others in C.M.A. No.2330 of 2017**, for the year 2001-2002, based on the cost of inflation index, the notional income is Rs.5,039/-, but the Tribunal has fixed Rs.8,000/- as notional income and the same is a reasonable one. Though the appellant has claimed Rs.25 lakhs, the Tribunal awarded RS.28,94,000/-. As per the case law of *Nagappa Vs. Gurudayal Singh and others reported in 2003 2 SCC 274*, the Tribunal can award excess amount than the claimed amount in the petition. The Tribunal also allowed the medical bills as claimed by the Claimant. Therefore, the Tribunal has awarded a reasonable amount and the same is a fair compensation. There is no any illegality or perversity found in the order passed by the Tribunal. There is no warrant to interfere with the order of the Tribunal. Thus, the point is answered.

12. In view of the above discussions, this Court is of the view that the Civil Miscellaneous Appeal has no merits and deserves to be dismissed.

13. Accordingly, this Civil Miscellaneous Appeal is dismissed. The



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2nd respondent Insurance Company is directed to deposit the amount within **2 (two) months from the date of this order and after deposit, the appellant is entitled to withdraw the same as per the Award.** No costs.

The connected miscellaneous petition is closed.

(R.S.K.J.) & (P.D.B.J)

01.08.2025

mjs

Internet : Yes

Index:Yes/No

Neutral Citation:Yes/No

To

The Motor Accident Claims Tribunal Judge
/ Subordinate Judge,
Tiruchengode.

R. SURESH KUMAR,J



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and
P.DHANABAL,J

(mjs)

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