



CMA NO.1332 OF 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2025

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CORAM:

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE DR. JUSTICE A.D.MARIA CLETE**

**CMA NO.1332 OF 2018
AND
CMP NO.10725 OF 2018**

The Branch Manager,
Oriental Insurance Co. Ltd.,
Branch Office, No.25/C, Annagiri Complex,
Ground Floor, Byepass Road, Hosur.

... Appellant /
2nd Respondent

Vs.

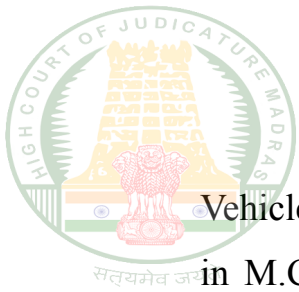
1. Chandrasekara Alva, 64 years,
S/o Thyamoanna Alva,
Door No.365/20, TRIAG, 4th Main,
8th Cross, 2nd Stage, K.H.B.Colony,
Pasaveshwara Nagar,
Bangalore – 560 079.

... 1st Respondent /
Petitioner

2. Raghuram Murthy,
S/o A.Pappanna,
No.2471, Vivekananda Nagar,
Bangarpet, Kolar District,
Karnataka State.

... 2nd Respondent /
1st Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of Motor



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Vehicles Act, 1988, praying to set aside the Award dated 08.06.2016 made in M.C.O.P.No.2934 of 2013 on the file of the Motor Accidents Claims Tribunal, Special Sub Judge, Krishnagiri.

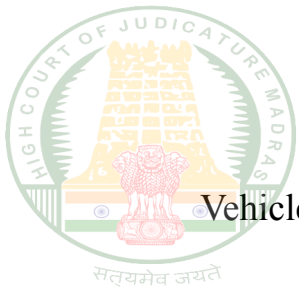
For Appellant : Mr.S.Arunkumar
For R1 : Mr.K.Prasanna
For R2 : Exparte

J U D G M E N T

(Judgment of the Court was delivered by Dr.A.D.MARIA CLETE, J.)

Aggrieved by the Award dated 08.06.2016 passed in M.C.O.P. No. 2934 of 2013 by the Motor Accidents Claims Tribunal, Special Sub Judge, Krishnagiri (hereinafter referred to as 'the Tribunal'), the second respondent/Insurance Company has filed this Civil Miscellaneous Appeal.

2. The facts of the case in brief is that on 18.12.2011, the claimant, while traveling as a pillion rider on a Hero Honda bike (KA-51/V-0084), was involved in an accident caused by the driver of a Car (KA-08-M-9889), which was insured with the appellant. The car, coming from the opposite direction, was driven in a rash and negligent manner, colliding with the motorcycle and resulting in the claimant sustaining multiple injuries. Consequently, the claimant/respondent filed a claim against the car's owner and the appellant (insurer) under Section 166 of the Motor



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Vehicles Act. The Tribunal awarded a compensation of Rs. 18,34,496/-.

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3. The only ground raised by the Appellant before us is that the Tribunal had erroneously fixed the annual income at Rs.6,00,000/-, despite the claimant being employed as a Cashier in a private company at the time of the accident. The appellant argued that the Tribunal's determination of the annual income at Rs. 6,00,000/- was on the higher side and lacked supporting documents.

4. While the appellant contended that no income-related documents were filed for the period before the accident, the respondent had in fact submitted income tax returns for the financial years 2009-2010 to 2014-2015 marked as Ex P12. The Tribunal observed that the respondent's annual income in 2009 was Rs.6,84,542/-, whereas in the year of the accident (2011), his average annual income ranged between Rs. 2,00,000/- and Rs. 2,50,000/-.

5. In point No. 4 of its order, the Tribunal concluded that the respondent's monthly income was Rs.40,000/-, which, when computed annually, amounts to Rs.4,80,000/-. This determination appears reasonable and requires no interference by this Court. However, while computing the



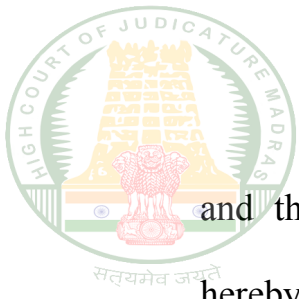
quantum of compensation, the Tribunal erroneously fixed the annual income at Rs. 6,00,000/- in the tabular calculation contained in the order, thereby contradicting its finding. This appears to be an arithmetical error.

6. Accordingly, the compensation under the head "Loss of Earning Capacity Due to Disability" is modified by recalculating it based on the correct annual income of Rs.4,80,000/- applying the formula: Annual Income×Disability Percentage×Multiplier= Rs.4,80,000 × 40% × 7 = 13,44,000/-. The amounts awarded under the other heads remain unaltered.

7. The revised quantum of compensation shall be based on these modifications as follows:

S.No.	Heads	Amount
1	40% Disability (Rs.4,80,000 x 40/100 x 7)	Rs.13,44,000/-
2	Medical Expenses	Rs.81,996/-
3	Future medical expenses	----
4	Transportation expenses	Rs.5,000/-
5	Extra Nutrition	Rs.3,000/-
6	Attender charges	Rs.10,000/-
7	Loss of cloths	Rs.4,500/-
8	Pain and Sufferings	Rs.25,000/-
9	Loss of Amenities and Enjoyment of Life	Rs.25,000/-
10	Loss of partial income	----
	Total	Rs.14,98,496/-

8. In the result, the Civil Miscellaneous Appeal is partly allowed



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and the compensation awarded by the Tribunal viz. Rs.18,34,496/- is

hereby reduced to Rs.14,98,496/- (Rupees Fourteen lakhs ninety eight thousand four hundred and ninety six only). The appellant / Insurance Company is directed to deposit the reduced compensation along with interest at the rate of 9% per annum from the date of petition till the date of deposit, less the amount if any already deposited to the credit of M.C.O.P.No.2934 of 2013 on the file of Motor Accidents Claims Tribunal, Special Sub Judge, Krishnagiri, within a period of eight (8) weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the petitioner is entitled to withdraw the same by filing proper application. No costs. Consequently, connected civil miscellaneous petition is closed.

[R.S.K., J.] [A.D.M.C., J.]

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

The Motor Accidents Claims Tribunal,
Special Sub Judge, Krishnagiri.

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