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CMA.No.908 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 26.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.908 of 2025

R.Subramanian @ Subramani

... Appellant

Vs.

1. P.Saravanan

2. The National Insurance Company Ltd.,
Motor third party claims Cell,
No.751, Anna Salai, Chennai 600 002.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 to enhance the compensation amount awarded in MCOP No.5468 of 2015 dated 03.02.2024 on the file of the V Judge, Motor Accident Claims Tribunal, Court of Small Causes, Chennai.

For appellant : Ms.P.T.Saleem Fathima

For Respondents : Mr.J.Michael Visuvasam

for 2nd respondent

R1- N D W



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JUDGMENT

Not satisfied with the quantum of compensation awarded by the Tribunal, the claimant has come before this court by filing the present appeal.

2. The first respondent remained absent before the Tribunal and hence, notice to him is dispensed with.

3. According to the claimant, he was riding a motorcycle in Viralimalai-Keeranur Main Road and when he came near Kulavaipatti village Temple, a van belonging to the first respondent, insured with the second respondent came in a rash and negligent manner and dashed against the motorcycle driven by the claimant. As a result of accident, he suffered fracture in his right humerus bone. Hence, he filed a claim petition seeking compensation of Rs.46,00,000/-.

4. The claim petition was contested by the insurance company/ second respondent by denying the negligence on the part of the driver



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of the van insured with the second respondent. It was the case of the insurance company that the accident had occurred only due to the negligence on the part of the victim.

5. 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 van insured with the second respondent/ insurance company. The compensation payable to the claimant was quantified at Rs.3,95,300/-. Not satisfied with the quantum of compensation awarded by the Tribunal, the claimant has come before this court.

6. Both the counsel for the appellant and the second respondent have not advanced any arguments on the questions of negligence and liability and therefore, the facts necessary for fixing negligence and liability have not been considered in the present appeal.

7. The learned counsel for the appellant/claimant would submit that the claimant suffered fracture in his right humerus bone and the



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Tribunal committed an error in not adopting multiplier method while awarding compensation.

8. The learned counsel for the second respondent insurance company would submit that the claimant has not produced any documentary evidence to substantiate that he suffered any functional disability and hence, the Tribunal was justified in awarding compensation under percentage basis.

9. It is seen from Ex.C1 disability certificate that the Medical Board assessed the disability suffered by the claimant at 35%. It was stated by the claimant that he was a Quality Controller at the time of accident. When he was examined as PW1, he clearly admitted that he was continuing his job as quality controller, even after accident. Therefore, it is clear that the disability suffered by the claimant has not affected his avocation and he is continuing in the very same job. Hence, the claimant has not made out any case for adoption of multiplier method.



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10. The Tribunal awarded a sum of Rs.4,000/- per percentage of the disability. Taking into consideration the year of accident, a sum of Rs.1,40,000/- at the rate of Rs.4,000/- per percentage, awarded by the Tribunal is confirmed. Likewise, the amount of Rs.82,233/- awarded under the head Medical expenses, as per the medical bills, is also confirmed.

11. The Tribunal fixed notional income of the injured at Rs.8,500/- and granted loss of income for four months. Having regard to the date of accident, this court proceeds to fix notional income at Rs.15,000/- and grant loss of income for four months. Accordingly, the compensation awarded under the head loss of income is enhanced to Rs.60,000/- (15,000 x 4).

12. The Tribunal awarded a sum of Rs.5,000/- towards transportation charges and a sum of Rs.3,000/- towards attender charges. Considering the nature of injury the same are enhanced to Rs.10,000/- and Rs.5,000/- respectively.



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13. The Tribunal awarded a sum of Rs.30,000/- towards pain and sufferings and in addition to that, a sum of Rs.30,000/- was also awarded under the head mental agony. Therefore, the claimant is not entitled to the compensation under both the heads. Accordingly, while conforming the award under pain and sufferings, the compensation awarded under the head mental agony is set aside.

14. Apart from the above, the Tribunal awarded a sum of Rs.40,000/- towards loss of amenities. The Tribunal observed that the claimant suffered fracture in his right humerus bone and in view of the same he had difficulty in lifting the articles. Therefore, considering the above said fact, the amount awarded under the head loss of amenities is enhanced to Rs.60,000/-.

15. Accordingly, the compensation awarded by the Tribunal is revised as under:



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Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability	1,40,000	1,40,000	confirmed
2.	Medical expenses	82,233	82,233	confirmed
3.	Loss of income	34,000	60,000	enhanced
4.	Pain and suffering	30,000	30,000	confirmed
5	Mental agony	30,000	---	set aside
6.	Transportation charges	5,000	10,000	enhanced
7.	Extra Nourishment	30,000	30,000	confirmed
8	Damages to clothes	1,000	1,000	confirmed
9	Attender charges	3,000	5,000	enhanced
10	Loss of amenities	40,000	60,000	enhanced
	Total	3,95,233 rounded off to 3,95,300	4,18,233	enhanced by 22,933

16. With the above modifications, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.3,95,300/- is hereby enhanced to **Rs.4,18,233/-** together with interest at 7.5% per annum from the date of petition till the date of deposit.



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17. The second **respondent** is directed to deposit the compensation amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of **six weeks** from the date of receipt of a copy of this judgment. On such deposit, the appellant/claimant shall be permitted to withdraw the compensation amount along with interest and costs, less the amount if any, already withdrawn, by making a formal application before the Tribunal. There shall be no order as to costs.

26.03.2025

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

1. V Judge,
Motor Accident Claims Tribunal,
Court of Small Causes, Chennai.
2. The Section Officer,
V.R. Section, Madras High Court.



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S.SOUNTHAR, J.

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