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C.M.A.No.977 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.977 of 2025

Anusha

... Appellant

VS.

1.S.Santhosh

2.United India Insurance Co. Ltd.,
Motor III Party Hub, Silingi Building, 4th Floor,
No.134, Greams Road,
Chennai – 600 006

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to allow this Civil Miscellaneous Appeal by enhancing the compensation awarded in the Fair and Decretal order, dated 25.04.2024, passed in M.C.O.P.No.4543 of 2019, on the file of the Motor Accident Claims Tribunal, (IV Judge, Court of Small Causes Court) at Chennai.

For Appellant : Mr.Amar Dineshbhai Pandiya

For R2 : Mr.J.Michael Visuvasam

For R1 : Notice Dispensed With



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J U D G M E N T

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Not satisfied with the quantum of compensation awarded by the Motor Accidents Claims Tribunal, (IV Judge, Court of Small Causes Court), Chennai in M.C.O.P.No.4543 of 2019, dated 25.04.2024, the injured/claimant has come before this Court.

2. According to the appellant/claimant, she travelled as a pillion rider in a motorcycle bearing Registration No.TN-11-X-5982 driven by one Vignesh on 27.04.2019. When they came near Mayilai Balaji Nagar Signal, Chennai in Velacherry Main Road, a car bearing Registration No.TN-23-BE-6197 belonged to the 1st respondent and insured with the 2nd respondent came in a rash and negligent manner and dashed against the two wheeler. As a result of the accident, the claimant was thrown away from the vehicle and suffered grievous injuries. Hence, the claim petition was filed seeking compensation of Rs.10,00,000/-.

3. The 1st respondent-owner of the car remained *exparte* before the Tribunal and the claim was contested only by the 2nd respondent-Insurer of the car 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

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(M.C.O.P.No.4705/2019) and 15 documents were marked as Exs.P1 to P15 on behalf of the claimant (M.C.O.P.No.4543/2019). On behalf of the 2nd respondent/Insurance Company, an Officer of the Insurance Company was examined as RW.1 and 5 documents were marked as Exs.R1 to R5. The Disability Certificate issued by the Medical Board to claimant in M.C.O.P.No.4543/2019 was marked as Ex.C2.

5. The Tribunal based on the oral evidence of PW.1, PW.2 and contents of FIR-Ex.P1, came to the conclusion that accident had occurred only due to negligence on the part of the driver of the car. However, while recording its finding the tribunal erroneously recorded as if the accident had occurred only due to the rash and negligent riding of a motorcycle in one paragraph and fixed negligence on the part of the car in other paragraph. But in both the paragraphs the registration number of the car belonging to the 1st respondent was mentioned. Ultimately, the compensation payable to the claimant was quantified at Rs.49,000/- and the Tribunal directed the 2nd respondent to deposit the compensation with right of recovery against 1st



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respondent-owner of the car on the ground there was policy violation. Not satisfied with the quantum of compensation, the claimant has come before this Court.

6. The learned counsel appearing for the appellant as well as the learned counsel appearing for the 2nd 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.

7. The learned counsel appearing for the appellant/claimant would submit that the claimant produced original medical bills and marked the same as Ex.P10 and the same was erroneously rejected by the Tribunal. He further submitted that the amount awarded by the Tribunal under the head disability is very much on lower side.

8. The learned counsel appearing for the 2nd respondent/Insurance Company fairly submitted that claimant produced medical bills and marked the same as Ex.P10 and thereby, established expenses of Rs.1,08,156/- incurred by the claimant. He also submits that though claimant produced bill

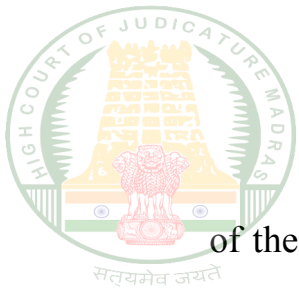


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for Rs.1,17,156/-, a payment of Rs.9,000/- towards root canal treatment cannot be taken into consideration as root canal treatment was not the result of the injury in accident. Therefore, the learned counsel for the 2nd respondent/Insurance Company submitted that the medical bills produced by the claimant can be considered to the extent of Rs.1,08,156/-. The same is recorded. The learned counsel further submits that the amount awarded by the Tribunal under various other heads are reasonable and the same requires no interference.

9. As far as question of negligence is concerned, the claimant was examined as PW.1 and she clearly deposed about the negligence on the part of the driver of the car. The Driver of the two wheeler was examined as PW.2. He also deposed about the negligent driving of the car by its driver.

10. It is seen from Ex.P1-FIR, a criminal case was registered against the driver of the car. Ex.P3, the final report would establish that charge sheet was filed against the driver of the car. Therefore, the Tribunal based on evidence of PW.1, PW.2 and Exs.P1 and P3 rightly came to the conclusion that the accident had occurred due to the negligence on the part



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of the driver of the car. However, while recording the finding, the Tribunal erroneously stated that accident had occurred due to the rash and negligent driving of motorcycle. The Tribunal also mentioned the Registration Number of the Car as the Registration Number of the Motorcycle. However, as mentioned earlier, this Court independently considered the evidence of PW.1, PW.2 and contents of FIR and Charge Sheet marked as Exs.P1 and P3 respectively and come to the conclusion that accident had occurred only due to the negligence on the part of the driver of the car. Therefore, nothing wrong in the final conclusion of the Tribunal that owner and insurer of the car namely respondents 1 and 2 are jointly and severally liable to pay compensation.

11. The Tribunal rejected medical bills produced by the claimant mainly on the ground that the original medical bills were not produced. The document number was also wrongly mentioned by the Tribunal as Ex.P7 instead of Ex.P10. A perusal of original records would establish that Ex.P10 is the original medical bills produced by the claimant. The various original medical bills produced by the claimant were also properly signed.



12. The learned counsel appearing for the 2nd respondent/Insurance

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Company also perused the Ex.P10-Medical Bills produced by the claimant and agreed that the original medical bills produced by the claimant to the tune of Rs.1,08,156/- has to be taken into consideration. He only disputed one bill to the value of Rs.9,000/- relating to root canal treatment.

13. In view of the concession made by the learned counsel appearing for the 2nd respondent that the original medical bills produced by the claimant to the tune of Rs.1,08,156/- can be taken into consideration, this Court proceeds to grant Rs.1,08,156/- towards medical expenses.

14. Ex.C2-Disability Certificate issued by the Competent Medical Board would establish that the claimant suffered disability at 3%. The Tribunal awarded only Rs.5,000/- per percentage of disability. Taking into consideration the accident had occurred in the year 2019, this Court is inclined to fix Rs.8,000/- per percentage of disability. Therefore, the amount awarded by the Tribunal under the head disability is increased to Rs.24,000/-.



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15. The amount awarded by the Tribunal under various other heads

like pain and suffering, transportation expenses, nutrition expenses, damages to the clothes and attender charges etc., are affirmed.

16. 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.	Disability	Rs.15,000/-	Rs.24,000/-	Enhanced
2.	Medical Expenses	Nil	Rs.1,08,156	Granted
3.	Pain and Suffering	Rs.10,000/-	Rs.10,000/-	Confirmed
4.	Transportation Expenses	Rs.5,000/-	Rs.5,000/-	Confirmed
5.	Nutrition Expenses	Rs.5,000/-	Rs.5,000/-	Confirmed
6.	Damages to clothes	Rs.2,000/-	Rs.2,000/-	Confirmed
7.	Attender Charges	Rs.2,000/-	Rs.2,000/-	Confirmed
8.	Loss of Amenities	Rs.10,000/-	Rs.10,000/-	Confirmed
Total		Rs.49,000/-	Rs.1,66,156/-	Enhanced by Rs.1,17,156/-

17. Accordingly, the compensation awarded by the Tribunal is enhanced to Rs.1,66,156/- from Rs.49,000/-. The 2nd Respondent/Insurance Company is directed to deposit the enhanced award amount of Rs.1,66,156/- together with interest at the rate of 7.5% per annum from the date of claim



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petition to the date of realisation, to the credit of M.C.O.P.No.4543 of 2019 on the file of the Motor Accidents Claims Tribunal, IV Court of Small Causes, Chennai, 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.

18. The Tribunal found that there was policy violation by the insured and hence, ordered pay and recovery and the said finding is affirmed.

19. With the above directions, the Civil Miscellaneous Appeal is partly allowed. No costs.

22.04.2025

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



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To

- 1.The Motor Accidents Claims Tribunal,
(IV Judge, Court of Small Causes Court), Chennai.
- 2.United India Insurance Co. Ltd.,
Motor III Party Hub, Silingi Building, 4th Floor,
No.134, Greams Road,
Chennai – 600 006.
- 3.The Section Officer,
VR Section, High Court,
Madras.



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S.SOUNTHAR, J.

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