



CMA.No.646 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :24.04.2025

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA.No.646 of 2025

Samidurai

... Appellant

Vs.

1.Ramakrishnan

2.Reliance General Insurance Company Limited,
Having Office at Reliance House, Opposite to Sastri Bhavan,
Nungambakkam, Chennai.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to allow this Civil Miscellaneous Appeal by enhancing the compensation awarded in the fair and decretal order dated 21.01.2025, passed in MCOP.No.103 of 2022, on the file of the Motor Accident Claims Tribunal, (Additional District Court), Kallakurichi.

For Appellant

:Mr.Amar Dineshbhai Pandiya

For Respondents

:Mr.P.Suresh Srinivasan for R2
Notice Dispensed with for R1



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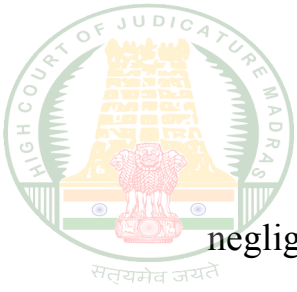
J U D G M E N T

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Not satisfied with the quantum of compensation awarded by the Tribunal, the injured claimant has come before this Court.

2. According to the appellant/claimant on 07.02.2022, he was riding his two wheeler on the left hand side of the road towards Thiyyagadurgam. At that point of time, the Bolero Maxi Truck vehicle belonged to the first respondent insured with the second respondent was driven by its driver in a rash and negligent manner and dashed against the two wheeler of the claimant. As a result of the accident, the claimant sustained fracture in his right leg, shoulder, hip and severe injuries all over the body. Hence, the claim petition was filed seeking compensation of Rs.30,00,000/-.

3. The first respondent owner of the offending vehicle remained ex-parte and the claim petition was resisted by the insurer of the offending vehicle namely the second respondent. It was the case of the second respondent that the accident had occurred only due to the rash and



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negligent driving of the two wheeler by the claimant and the driver of the Bolero Maxi Truck had driven the vehicle carefully by following traffic rules. The second respondent also denied the age, avocation and income of the claimant and sought for dismissal of the claim petition.

4. 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 Bolero Maxi Truck belonged to the first respondent insured with the second respondent. The compensation payable to the claimant was quantified at Rs.8,95,850/-. Not satisfied with the quantum of compensation, the claimant has come before this Court.

5. The learned counsel appearing for the appellant would submit that the competent medical board assessed the disability of the claimant at 42% and the Tribunal committed an error in not adopting multiplier method, while calculating the compensation.

6. The learned counsel appearing for the second respondent Insurance Company would submit that in the absence of any documentary evidence to prove the functional disability of the claimant, the Tribunal was



justified in calculating the compensation on percentage basis.

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7. It is seen from the averments found in the claim petition and other medical document that the claimant suffered fracture in distal femur, proximal tibia, left clavicular bone and right hand 3rd and 4th metacarpal. He was treated with internal fixing and K-wire fixation. A perusal of Ex.C1-disability certificate issued by medical board, Kallakurichi would establish the claimants suffered disability of 42%. The claimant was given 10% for non-union, 10% for deformity in right hand and 7% for restriction in range of motion. However, it is vehemently contended that the claimant is an agriculturists and the injury suffered by him interferes with his avocation. However, in the disability certificate issued by the medical board, there is nothing to suggest about the functional disability suffered by the claimant. Therefore, the Tribunal was justified in awarding compensation on percentage basis. In the case on hand, the accident had occurred in the year 2022, however the Tribunal granted only Rs.7,000/- per percentage of disability. Taking into consideration the date of accident, this Court feels, it would be appropriate to grant of Rs.9,000/- for percentage of disability. Since Ex.C1-disability certificate issued by medical board indicates the claimants suffered 42% disability, he is entitled



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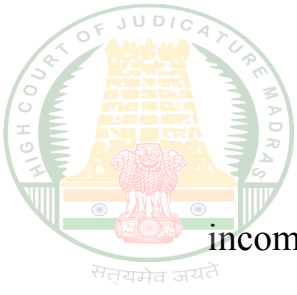
to Rs.3,78,000/- under the head disability.

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8. Exs.P4 to P7-discharge summary would indicate the claimants was treated in patient in Government Hospital, Kallakurichi, Salem Poly clinic, Mahatma Gandhi Medical College and Research Institute, Puducherry, Rajiv Gandhi Hospital, Chennai and in Sri Ram Hospital, Tirukoilur, during the period from 08.02.2022 to 26.03.2023. Taking into consideration, the prolonged hospitalisation, this Court is inclined to grant a sum of Rs.50,000/-. The amount awarded by the Tribunal is excessive and the same is reduced to Rs.50,000/-.

9. As mentioned earlier, the claimant has taken treatment in five hospital located in five different places nearly for 47 days. Taking into consideration, the said fact the amount awarded by the Tribunal under the head attender charges, transport expenses and extra nourishment are affirmed.

10. The amount of Rs.5,000/- awarded by the Tribunal under the head damage to clothes is set aside. The Tribunal awarded the loss of



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income for five months at the rate of 12,000/- per month, the accident had occurred in the year 2022. Taking into consideration, the date of accident and prevailing cost of living. This Court is fixed notional income of the victim at Rs.18,000/-. The victim was in hospital for nearly two months. Therefore, considering the period of hospitalisation and extent of various fracture suffered by him certainly he would have been kept out of his avocation for five months. Therefore, he is entitled to Rs.90,000/- under the head loss of income. The Tribunal awarded Rs.3,41,850/- under the head medical expenses and the same is based on medical bills produced by the claimant marked as Ex.P8.

11. It is noted in the disability certificate issued by the medical board, there was a non-union and shortening of his leg. Taking into consideration, the claimant cannot enjoy his life as he did prior to the accident, it would be appropriate to grant a sum of Rs.50,000/- under the head loss of amenities.



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12. 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	
1.	Compensation for 42% disability	Rs.2,94,000/-	Rs.3,78,000/-	enhanced
2.	Pain and suffering	Rs.75,000/-	Rs.50,000/-	reduced
3.	Attender charges	Rs.50,000/-	Rs.50,000/-	affirmed
4.	Transportation	Rs.40,000/-	Rs.40,000/-	affirmed
5.	Extra nourishment	Rs.30,000/-	Rs.30,000/-	affirmed
6.	Damage to clothes	Rs.5,000/-	Set aside	Set aside
7.	Loss of income 5 months	Rs.60,000/-	Rs.90,000/-	enhanced
8.	As per Ex.P8 medical bills	Rs.3,41,850/-	Rs.3,41,850/-	affirmed
9.	Loss of amenities	-	Rs.50,000/-	granted
	Total	Rs.8,95,850/-	Rs.10,29,850/-	enhanced

13. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to Rs.10,29,850/- from Rs.8,95,850/-. The 2nd respondent/Insurance Company is directed to deposit the enhanced award amount together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, after deducting the amount



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already deposited, if any, to the credit of MCOP.No.103 of 2022, on the file of the Motor Accident Claims Tribunal, (Additional District Court), Kallakurichi, within a period of six weeks from the date of receipt of copy of this judgment. On such deposit, the appellant/claimant is permitted to withdraw the said amount by filing appropriate application before the Tribunal.

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

24.04.2025

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

1.The Motor Accident Claims Tribunal,
(Additional District Court), Kallakurichi.

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



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S.SOUNTHAR, J.

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