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CMA Nos. 2130 & 67 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-06-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 2130 of 2024 & CMA No.67 of 2024

and

CMP No. 16312 of 2024

United India Insurance Company Ltd.,
Shiva Madical B Stair, Calicur Road,
Gudalur, Nilgiris District 643 212.

Appellant

Vs

1. Arshid

2. P.Rayin

Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Sec. 173 of Motor Vehicles Act, praying to set aside award and decree dated 28.08.2023 made in M.C.O.P.No.100 of 2019 on the file of the Motor Accidents Claims Tribunal(Subordinate Judge), Sathyamangalam.

CMA NO. 67 OF 2024

Arshid

Appellant



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Vs

1. P. Rayin (Owner)

No.11/375, Cherambadi, Cherngode,
Nilgris Dt, (1 Respondent remained
Exparte in Lower Court, Hence Given
Up)

2.United India Insurance Co.Ltd.,
Shiva Medical B Stair, Circular Road,
Gudalur, Nilgris Dt.

Respondents

PRAYER :- Civil Miscellaneous Appeal filed under Sec. 173 of Motor Vehicles Act, praying to set aside the award of the Motor Accidents Claims Tribunal, (Subordinate Judges Court) Sathyamangalam and made in MCOP No.100/2019 dated 28.08.2023.

CMA No. 2130 of 2024

For Appellant: Mr. D.Bhaskaran

For Respondents: Ms.P.T.Saleem Fathima For R1
R2 - Notice Dispensed With

CMA No. 67 of 2024

For Appellant Ms. P.T.Saleem Fathima

For Respondents : Mr. D. Bhaskaran For R2
Batta Due for R1



COMMON JUDGMENT

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Challenging the impugned award passed by the Motor Accident Claims Tribunal, Subordinate Judge, Sathyamangalam in MCOP No.100 of 2019, dated 28.08.2023, the appellant/2nd respondent insurance company preferred Civil Miscellaneous Appeal in C.M.A.No. 2130 of 2024 and the petitioner preferred an appeal in C.M.A.No. 67 of 2024.

2. For the sake of convenience, the parties are denoted as per the ranking in the claim petition.

3. The case of the petitioner is that on 08.01.2019 at about 10.15 hrs. the petitioner was riding the auto bearing Regn. No. TN-43 Y-5807 on 3rd mail curve deversolai to Gudalur Road, Gudalur, at that time, the driver drove the tipper lorry bearing Regn. No.TN-43 Y-9997 came from Deversolai opposite direction with high speed in a rash and negligent manner without any signal or sound, hit against auto. Due to which, the petitioner fell down from the auto



and sustained grievous injuries on the head, fracture in the right leg and injuries all over the body, for which he underwent treatment in the hospital. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation of Rs.20,00,000/-.

4. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the rider of the 1st respondent. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.25,70,980/- under various heads and the said compensation was directed to be paid with interest at the rate of 7.5% per annum.

5. The Insurance Company as well as the petitioner aggrieved by the quantum of compensation fixed by the Tribunal has filed the present appeals before this Court.



6. The learned counsel for 2nd respondent insurance company argues that the petitioner was aged about 22 years and he had claimed compensation of Rs.20,00,000/-, but the tribunal had erroneously awarded a sum of Rs.25,70,980/- above the compensation claimed by him. He would also submit that the tribunal has not assigned any reason for applying multiplier method and the tribunal had erroneously fixed the disability at 50%. Therefore, the learned counsel prayed to set aside the award passed by the tribunal.

7. The learned counsel for petitioner argues that the accident was happened in the year 2019, but without considering the cost of living at that time, the tribunal had fixed the notional income as Rs.16,000/-. Hence, he prayed for enhancement of compensation.

8. Heard both sides.

9. Considering submissions of both sides and on perusal of medical records, the fact reveals that the petitioner sustained severe traumatic brain injury with open skull fracture and multiple contusions, for which, he took treatment as inpatient and undergone two surgeries. According to the claimant, due to injury sustained in the accident, he was not able to continue his



avocation. However, the 2nd respondent insurance company has not disputed the

injury sustained by him on the head and right leg fracture, which was evacuated

the period of treatment under three phases and the ultimate result, he sustained

permanent disability. Furthermore, at the time of filing the petition, the

petitioner was mentally unstable and for mental stability, the medical board

assessed disability at 50% however, the disability can be taken into

consideration at 30%. Accordingly, this Court is inclined to fix the disability at

30%. Considering the place of accident and the location of hospital, the tribunal

awarded a sum of Rs.5000/- towards transportation and the same was enhanced

to Rs.20,000/-. Considering the nature of injuries and duration of treatment in

hospital, the amount awarded towards extra nourishment is enhanced from

Rs.5000/- to Rs.30,000/- and the attender charges is also to be enhanced from

Rs.5000/- to Rs.25,000/-. Furthermore, considering the fact that the petitioner

underwent two surgeries and even now taking treatment, this court is inclined to

enhance the sum awarded towards pain and sufferings from Rs.90,000/- to

Rs.1,00,000/-. The compensation that has been fixed under the other heads are

reasonable and does not require the interference of this Court.

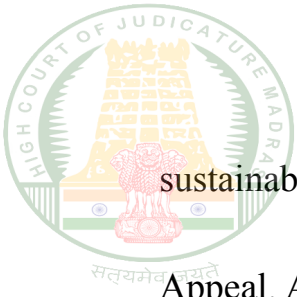


10. In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:

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S.No	Compensation awarded under the head	Amount awarded by the tribunal (in Rs.)	Amount (in Rs.)	Award confirmed or granted or enhanced
1.	Loss of earnings	Nil	nil	confirmed
2.	Transport to hospital	5000	20,000	enhanced
3.	Extra nourishment	5,000	30,000	enhanced
4.	Attender charges	5,000	25,000	enhanced
5.	Future medical expenses	nil	nil	
6.	Damages for cloths and articles	3,000	3,000	confirmed
7.	Medical expenses	43,780	43,780	confirmed
8.	Pain and sufferings	90,000	1,00,000	enhanced
9.	Permanent disability and loss of earning power Rs.16000/- (add 40% future prospects) Rs.16000+6400 = 22400 Rs.22400 x 12 x 18 x 30% = Rs.14,51,520/-	24,19,200	14,51,520	reduced
	Total	25,70,980/-	16,73,300	reduced

11. Accordingly, the Civil Miscellaneous Appeal filed by the appellant insurance company in C.M.A.No.2130 of 2024 is partly allowed and modified. Furthermore, the Civil Miscellaneous Appeal filed by the 1st respondent is not



sustainable in view of findings rendered in the above Civil Miscellaneous Appeal. Accordingly, the Civil Miscellaneous Appeal filed by the 1st respondent

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in C.M.A.No. 67 of 2024 is dismissed. There shall be a direction to the appellant Insurance Company to deposit the entire compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of eight weeks from the date of receipt of copy of this judgement. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

25-06-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Motor Accident Claims Tribunal, Sub-Judge, Sathyamangalam.

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



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CMA Nos. 2130 & 67 of 2024



T.V.THAMILSELVI J.

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**CMA Nos. 2130 & 67 of
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**25-06-2025
(2/2)**