



CMA.No.1012 of 2025

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRASu

Dated :07.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.1012 of 2025

Velmurugan

... Appellant

Vs.

1.Jayapriya

2.M/s. ICICI Lombard Insurance Company limited

Swarnambigai Plaza, Omalur Main road,

Near New Bus Stand, Salem 9.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to set aside the order dated 22.12.2023 made in MCOP No.360 of 2023 on the file of the Motor Accident Claims Tribunal, Special Sub Court 1, Salem and enhance the compensation.

For Appellant : Mr.S.Ramprabhu

for M/s.K.Vasanthanayagan

For Respondents : M/s.R.Sree Vidhya for R2

R1-Notice dispensed with

JUDGMENT

Not satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, the injured claimant has come before this court by way of this appeal.



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2. It is the case of the claimant that when he attempted to cross the road near All India Radio office, Chennai on 05.12.2022, a Honda Dio two-wheeler belonged to the first respondent insured with the second respondent came in a rash and negligent manner and dashed against the claimant. As a result of the accident, the claimant suffered fracture in his right leg. Hence, the claim petition was filed seeking compensation of Rs.20,00,000/-.

3. The first respondent, owner of the two-wheeler, remained ex-parte before the Tribunal and the claim petition was contested by the insurer of the two-wheeler on the ground that the accident had occurred only due to the negligence on the part of the claimant.

4. The Tribunal, on appreciation of evidence available on record, came to the conclusion that the accident had occurred due to the negligence on the part of the driver of the two-wheeler. The compensation payable to the claimant was quantified at Rs.2,55,504/-



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Not satisfied with the quantum of compensation, the claimant has come before this Court.

5. Both the learned counsel for the appellant as well as learned counsel for 2nd respondent/Insurance Company have not advanced any arguments on the questions of negligence and liability. Therefore, the facts necessary to decide those questions are not discussed in this judgment.

6. The learned counsel for the Appellant submitted that the accident had occurred in the year 2022 and the tribunal awarded only Rs.5000/- per percentage of the disability and the same requires enhancement. He also submitted that the amount awarded by the tribunal under the head loss of income is on lower side.

7. The learned counsel for the second respondent/ insurance company submitted that the amount awarded by the tribunal under various other heads like pain and suffering, transportation expenses,



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8. It is seen from the records that the accident had occurred in the year 2022. In ***Future General India Insurance Company Limited Vs. Manivannan and two others in CMA No.3334 of 2021, dated 15.06.2022***, a division bench of this Court awarded Rs.7,000/- per percentage of the disability for the accident that had occurred in the year 2017. Therefore, taking into consideration, in the case on hand, the accident had occurred in the year 2022, this Court holds that the claimant is entitled to Rs.9,000/- per percentage of the disability. The Medical Board issued Ex.C1, Disability Certificate fixing disability at 15%. Therefore, the claimant is entitled to Rs.1,35,000/- (Rs. 9,000 x 15)under the head disability.

9. A perusal of the discharge summary marked as Exhibit P4 would indicate that the claimant was in hospital only for 5 days (from 05.12.2022 to 09.12.2022) and he underwent interlocking tibial



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nailling(Rt), Fibular Osteotomy, Bone grafting to treat the fracture injuries suffered by him. Taking into consideration that claimant suffered a fracture, this Court feels that the claimant would have been kept out of his avocation for considerable period. An amount of Rs. 30,000/- awarded by the tribunal under the head loss of income during treatment period is enhanced to Rs.45,000/-. Taking into consideration the period of hospitalization and the nature of injury, this Court feels the amount awarded by the tribunal under the heads pain and suffering, transportation charges, nutritional expenses, attendant charges are on higher side. The amount awarded under the said heads are reduced to Rs.30,000/-, Rs.10,000/-, Rs.15,000/- and Rs.15,000/- respectively. In view of the fact that claimant suffered a fracture in his right tibial bone, the amount awarded by the tribunal under the head loss of amenities is increased to Rs.20,000/-. The amount of Rs.1,000/- under the head damage to clothes is affirmed. The award passed by the tribunal is modified as follows.



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10. In view of the discussions made earlier, the compensation awarded by the Tribunal is modified as follows:-

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Permanent disability	75,000/-	1,35,000/-	Enhanced
2.	Pain and Suffering	50,000/-	30,000/-	Reduced
3.	Loss of amenities	10,000/-	20,000/-	Enhanced
4.	Extra Nourishments	20,000/-	15,000/-	Reduced
5.	Transportation charges	20,000/-	10,000/-	Reduced
6.	Damage to clothes	1,000/-	1,000/-	Confirmed
7.	Attender charges	20,000/-	15,000/-	Reduced
8.	Loss of income	30,000/-	45,000/-	Enhanced
9	Medical Expenses	29,504/-	29,504/-	Confirmed
	Total	2,55,504/-	3,00,504/-	Enhanced by Rs.45,000/-

11. With the above modifications, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,55,504/- is enhanced to Rs.3,00,504/-.The appellant is



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entitled to interest at the rate of 7.5% per annum (excluding the delay period of 315 days as per order in CMP.No.5542 of 2025) from the date of filing of the claim petition till the date of realization. The second respondent/Insurance company is directed to deposit the enhanced award amount to the credit of MCOP No.360 of 2023 on the file of the Motor Accident Claims Tribunal, Special Sub Court 1, Salem, along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of copy of this Judgment. The appellant/claimant is permitted to withdraw the same along with interests and costs, less the amount if any, already withdrawn by filing a formal application before the Tribunal. No costs.

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Index:Yes/No
Internet:Yes/No
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To

1. The Motor Accident Claims Tribunal,
Special Sub Court 1, Salem
2. The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

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