IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-08-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1356 of 2025

Parthiban

...Appellant(s)

Vs

1. S. Murugan

2.National Insurance Co.Ltd.,
Divisional Office,
Bharathidasan Salai,
Contonment,
Trichy 1,
having brach at Venkatesapuram,
Perambalur.

...Respondent(s)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and Decree dated 08.02.2024 made in M.C.O.P.No.861 of 2018 on the file of the Motor Accident Claims Tribunal and Chief Judicial Magistrate, Perambalur.

For Appellant(s): Mr.S.P.Yuaraj

For Respondent(s): R1 - Dispensed With
Mr. J. Chandran for R2

JUDGMENT

The above Civil Miscellaneous Appeal arises against the Award and Decree dated 08.02.2024 made in M.C.O.P.No.861 of 2018 on the file of the Motor Accident Claims Tribunal and Chief Judicial Magistrate, Perambalur.

2.It is the case of the claimant that on 03.07.2018 about 08.00p.m. while the claimant was riding his two wheeler bearing Reg.No.TN 49BK 7471 on trichy – Chennai National Highway from North to South opposite to Premier LPG Consulting KIT Company at Sanjeevi Nagar junction at the left extreme side of the road at a very normal speed with care and caution at that time, the 1st respondent's lorry bearing Reg.No.TN 02C 9725 driven by its driver in a rash and negligent manner dashed on the rear side of the petitioner's vehicle. Due to the same, the claimant sustained grievous injuries all over the body. Hence, the claimant filed a claim petition claiming Rs.50,00,000/- towards compensation.

3.The 1st respondent remained ex parte. The 2nd respondent/Insurance Company denied negligence and alleged that the petitioner himself caused the accident while overtaking the lorry. The insurer disputed age, income, and nature of injuries and contended that the claim was excessive.

4.After considering the oral and documentary evidence made on either side, the Tribunal held that the accident occurred due to the rash and negligent driving of the lorry driver and awarded a sum of Rs.29,15,000/- with 7.5% interest to the claimant.

5.The learned counsel appearing for the appellant would submit that the Tribunal has fixed a meagre notional income of Rs.12,000/- per month ignoring the proof of employment as a heavy vehicle driver earning Rs.25,000/- plus batta. Further, the Tribunal failed to award adequate compensation under heads such as pain and sufferings, loss of amenities, and future prospects. He would submit that the Tribunal omitted to consider the total functional disability at 100% for his avocation, as he cannot continue driving after amputation. The Tribunal has not granted just compensation in proportion to the grievous nature of injuries, mental agony, and permanent loss of livelihood. Hence, the appellant prays for enhancement.

6.The learned counsel appearing for the respondent/Insurance Company would contend that the Tribunal has already awarded liberal compensation and the notional income fixed at Rs.12,000/- is reasonable without documentary proof. Further, the addition of 40% for future prospects and multiple additional heads like artificial limb, loss of marital life, etc., already compensate the appellant adequately. Thus, no further enhancement is warranted.

7.Upon perusal of the records and submissions, it is not in dispute that the appellant sustained grievous injuries resulting in amputation of the left leg below the knee and permanent disability assessed at 60% by the Medical Board. Being a heavy vehicle driver by profession, such disability effectively renders him unfit for his previous employment. Hence, the injured claimed that the functional disability ought to be treated as 100% for loss of earning capacity. The Tribunal has fixed the notional income at Rs.12,000/- p.m., which appears low for a skilled driver in 2018. Taking into account the cost of living at that time, the notional income can be enhanced to a sum of Rs.16,000/- per month to which 40% of actual salary has to be added to the monthly income of the injured towards future prospects. Therefore, the monthly income would come to Rs.22,400/-. The annual income would work out to a sum of Rs.26,88,000/- (Rs.22,400/- x 12 = Rs.2,68,800/-). Considering his age, the appropriate multiplier to be adopted is 17. By relying the Judgment of the Hon'ble Supreme Court in Mohamed Sabeer @ Shabir Hussain v. Regional Manager, U.P. State Road Transport Corporation [CDJ 2022 SC 1371], the disability at 75% is taken into account for the injured and the loss of income would be a sum of Rs.34,27,200/- (Rs.2,68,800/-x 17 x 75% = Rs.34,27,200/-). Further, a sum of Rs.25,000/- granted by the Tribunal is enhanced to a sum of Rs.50,000/- towards extra nourishment. A sum of Rs.1,00,000/- granted under the head of loss of amenities is deleted by this Court. A sum of Rs.1,000/- granted by the Tribunal is enhanced to a sum of Rs.5,000/- towards damages to cloth. A sum of Rs.50,000/- granted by the Tribunal is enhanced to a sum of Rs.1,00,000/- towards future medical expenses. In all other respects, the Award remains unaltered. Therefore, taking into consideration the above aspects, the modified amount is as follows:

Head	**Tribunal (Rs.)**	**Awarded by this Court (Rs)**
Loss of income	-Rs.20,56,320/-	-Rs.34,27,200/-
Transportation	-Rs.20,000/-	-Rs.20,000/-
Extra nourishment	-Rs.25,000/-	-Rs.50,000/-
Attendabt charges	-Rs.50,000/-	-Rs.50,000/-
Pain & sufferings	-Rs.1,00,000/-	-Rs.1,00,000/-
Medical bills	-Rs.12,528/-	-Rs.12,528/-
Loss of amenities	-Rs.1,00,000	0.00
Damage to clothes	-Rs.1,000	-Rs.5,000/-
Future medical expenses	-Rs.50,000	-Rs.1,00,000/-
Loss of marital life	-Rs.2,00,000	-Rs.2,00,000/-
Artificial limb & maintenance	-Rs.2,00,000/-	-Rs.2,00,000/-
Total	-Rs.28,14,848/- which is rounded off to Rs.29,15,000	-Rs.41,64,728/-

Since Rs.1,00,000/- is awarded for future medical expenses the same would not carry any interest.

8.Accordingly, this Civil Miscellaneous Appeal is partly allowed. The 2nd respondent/Insurance Company is directed to deposit the entire compensation amount of Rs.41,64,728/- with interest @7.5% per annum, less the amount already deposited, with proportionate accrued interest and costs, to the credit of M.C.O.P.No.861 of 2018 on the file of the Motor Accident Claims Tribunal and Chief Judicial Magistrate, Perambalur., within a period of eight weeks from the date of receipt of a copy of this Judgment, if not deposited earlier. The claimant is not entitled to get interest for the default period. On such deposit, the appellant/claimant is permitted to withdraw the entire award amount with proportionate accrued interest and costs by making necessary applications.

The claimant is directed to pay the Court fee for the compensation amount, if required. The Tribunal below shall not disburse the amount till such time as proof of payment of Court Fee has been produced by the claimant. No costs.

11-08-2025

mps
Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

T.V.THAMILSELVI J.

mps

To
1.The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Perambalur.

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

CMA No. 1356 of 2025

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