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CMA.No. 900 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 26.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.900 of 2025

Manikandan

... Appellant

Vs.

1. D.Mohanraj

2. United India Insurance Company Ltd.,
MTPC Hub, Silingi Buildings, 4th floor,
No.134, Greaves Road, Chennai 600 006.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 to set aside the award dated judgment and decree dated 20.10.2022 made in MCOP No.1596 of 2016 on the file of the V Judge, Court of Small Causes, Motor Accident Claims Tribunal, Chennai.

For appellant : Mr.S.R.Suga

For Respondents : Mr.R.Sreevidhya, for second respondent



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JUDGMENT

Not satisfied with the quantum of compensation awarded by the Tribunal, the claimant has come before this court by filing the present appeal.

2. The first respondent/owner of the vehicle remained absent before the Tribunal and hence, notice to him is dispensed with.

3. Ms.R.Sreevidhya, learned counsel takes notice for the second respondent.

4. It is the case of the claimant that he travelled as a pillion rider in a motorcycle bearing registration No. TN 02 AZ 0731. When he came near Buhari hotel, Anna Salai, Nandanam, the rider of the motorcycle had driven the vehicle in a rash and negligent manner, overtook the TATA Ace vehicle in the left side and suddenly applied brake. As a result of accident, the claimant was thrown out from the vehicle and sustained injury in his left hand, right leg and all over the body. Therefore, the claimant filed a claim petition before the Tribunal



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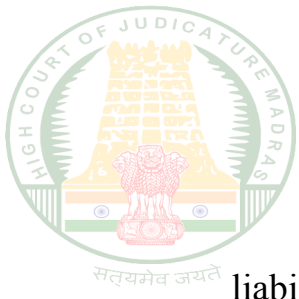
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seeking compensation of Rs.15,00,000/-.

5. The first respondent, owner of the two wheeler remained exparte before the Tribunal and the claim petition was contested only by the insurer of the motorcycle. It is the case of the second respondent that/ insurance company that the allegation made in the claim petition regarding the manner of accident was not correct. The second respondent also disputed the nature of injury, period of treatment, loss of income etc., claimed in the claim petition.

6. 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 motor cycle and quantified the compensation at Rs.2,07,500/-. Not satisfied with the quantum of compensation awarded by the Tribunal, the claimant has come before this court.

7. Both the counsel for the appellant and the second respondent have not advanced any arguments on the questions of negligence and



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liability and therefore, the facts necessary for fixing negligence and liability have not been considered in the present appeal.

8. It is seen from Ex.P2, Accident Register copy and Ex.P3, discharge summary that the claimant suffered fracture in his left clavicle bone and he was treated with implantation. It is also seen that the claimant suffered fracture in both bones in his left leg. The Medical Board, which examined the claimant had issued Ex.C1 disability certificate fixing disability at 26%. Since there was no evidence to show that the disability suffered by him interfered with his avocation, the Tribunal proceeded to award compensation on percentage basis. Taking into consideration the year of accident (2015), the Tribunal awarded a sum of Rs.4,000/- per month and the same is in accordance with the law laid down by a Division Bench of this court in ***CMA No.3334 of 2021, dated 15.06.2022 in Future General India Insurance Company Limited Vs. Manivannan and two others.***



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9. It is vehemently argued by the learned counsel appearing for the appellant that the claimant was disabled from doing his work for nearly six months, however, the Tribunal awarded loss of income only for two months, that too at the rate of Rs.12,000/- per month, which is on lower side. Taking into consideration the year of accident, this court feels that it would be appropriate to fix a sum of Rs.15,000/- per month as notional income. Having regard to the nature of injury suffered by the claimant, loss of income is granted for three months. Accordingly a sum of Rs.45,000/- is awarded towards loss of income.

10. As far as the compensation awarded by the Tribunal under the other heads are concerned, the same are just and reasonable and hence, they are confirmed.

11. Accordingly, the compensation awarded by the Tribunal is revised as under:



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Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Permanent or Partial disability	1,04,000	1,04,000	confirmed
2.	Loss of income	24,000	45,000	enhanced
3.	Pain and sufferings	30,000	30,000	confirmed
4.	Transportation expenses	5,000	5,000	confirmed
5.	Extra nourishment	20,000	20,000	confirmed
6.	Damages to clothes	1,000	1,000	confirmed
7	Attender charges	3,500	3,500	confirmed
8	Loss of amenities	20,000	20,000	confirmed
	Total	2,07,500	2,28,500	enhanced by 21,000

12. With the above modifications, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,07,500/- is hereby enhanced to **Rs.2,28,500/-** together with interest at 7.5% per annum from the date of petition till the date of deposit (excluding the default period of 380 days, as per order in CMP No.4857 of 2025).



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13. The **second respondent** is directed to deposit the compensation amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of **six weeks** from the date of receipt of a copy of this judgment. On such deposit, the appellant/claimant shall be permitted to withdraw the compensation amount along with interest and costs, less the amount if any, already withdrawn, by making formal application before the Tribunal. There shall be no order as to costs.

26.03.2025

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

1. V Judge,
Motor Accident Claims Tribunal,
Court of Small Causes, Chennai.
2. The Section Officer,
V.R. Section, Madras High Court.



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S.SOUNTCHAR, J.

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