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C.M.A.No.2954 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **31.10.2025**

CORAM

THE HONOURABLE MRS. JUSTICE R. KALAIMATHI

C.M.A.No.2954 of 2025

Rahul

.. Appellant / Petitioner

Vs.

1. D. Krishnan

2. The Branch Manager

Shriram General Insurance Company Limited,
Jaipur, Office situated at E 8-RIICO Industrial Area,
Sitapura, Jaipur, Rajasthan 302 022,
Branch Office at Denkanikotta Road,
Opposite to CSI Church,
Hosur Post, 635 109.

..Respondents / Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicle Act, 1988, to enhance the compensation amount made in the Award dated 21.03.2024 made in M.C.O.P.No.345 of 2019 on the file of the Motor Vehicle Accident Claims Tribunal / Additional District Court, Hosur, by allowing this Civil Miscellaneous Appeal.

For Appellant

: Mr.S.P.Yuvaraj

For R1

: Notice dispensed with

For R2

: Mrs.R.Sree Vidhya



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JUDGMENT

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The Claimant herein has preferred this Civil Miscellaneous Appeal against the Award dated 21.03.2024 made in M.C.O.P.No.348 of 2019 on the file of the Motor Accident Claims Tribunal / Additional District Court, Hosur, for enhancement of compensation.

2. Parties are indicated herein as per their litigative status and ranking before the Tribunal.

3. Case of the claimant is given in brief:-

The petitioner Rahul S/o.Venkataswamy, aged about 20 years was pursuing B.E. degree in Marine Engineering (III year) and doing part-time job and earning a sum of Rs.15,000/- per month. On 24.01.2017, while the petitioner was riding motorcycle bearing Registration No.TN 70 B 9393 along Avalapalli - Hosur road, near Sri Chandrasekara Marriage Hall, a TATA Ace Mini Lorry bearing No.TN 70 B 4235 came from Hosur towards Basthi driven by its driver in a rash and negligent manner with high speed, lost control over the vehicle and dashed on the petitioner's two wheeler. Due to the said impact, the petitioner was thrown away from the vehicle fell down and sustained serious injuries. He was taken to the Government Hospital, Hosur and thereafter, he was shifted for further treatment to Bangalore Sparsh Hospital. The Hosur Traffic Investigation Wing registered Crime No.19 of 2017



under Sections 279 and 338 of IPC, against the driver of the TATA Ace vehicle. The accident occurred due to the negligent driving of the driver of the 1st respondent vehicle. Therefore, the 1st respondent being the Owner and the 2nd respondent being the Insurer are jointly and severally liable to pay compensation to the petitioner.

4. Counter details of the 2nd respondent is stated in brief:-

Complaint was lodged by one Kishore, who is the cousin of the petitioner and based on his false report, case was registered upon the driver of TATA Ace vehicle. The petitioner was riding his vehicle without any driving license and without wearing helmet. These facts would establish the negligence of the petitioner in the alleged accident. The driver Perumal S/o. Raji, of Tata Ace vehicle was not holding effective driving license at the relevant point of time. The 1st respondent has entrusted his vehicle to the driver who had no driving license. Therefore, the 1st respondent having violated the policy conditions, the 2nd respondent is not liable to pay compensation to the claimant herein.

5. At trial, to substantiate the claim petition details, on the claimant's side, claimant has examined himself as P.W.1 and fourteen documents have been marked. Ex.P4 is the Discharge summary. Ex.P11 is the Decree Certificate of the petitioner. Ex.P12 is the Attendance Certificate issued by the



College. On the 2nd respondent side, staff of RTO was examined as R.W.1 and Official of the 2nd respondent Insurance Company was examined as R.W.2 and two documents have been marked.

6. The Tribunal upon consideration of the oral and documentary evidence and after hearing the arguments advanced by either side, quantified the compensation as Rs.4,77,352/- and the break-up details are given hereunder:-

Sl. No.	Description	Amount awarded by Tribunal (in Rs.)
1	Compensation for partial permanent disability of 40% (40% x Rs.5000/-)	2,00,000/-
2	For Medical expenses	2,26,352/-
3	For Future Medical expenses	5,000/-
4	For Pain and Sufferings	5,000/-
5	For Loss of Amenities	5,000/-
6	For Extra Nourishment	2,000/-
7	For Transport Expenses	2,000/-
8	For Attender Charges	2,000/-
9	For Loss of Income (3 x 10,000/-)	30,000/-
	Total	4,77,352/-

7. The learned counsel for the appellant would contend that the petitioner was aged about 20 years and he was pursuing his 3rd year degree course at the relevant point of time. On account of the accident, he sustained fracture of right acetabulum and the Medical Board assessed his disability at 40%. Taking into account the nature of the fracture, the Tribunal did not adopt



multiplier method and ordered loss of income of Rs.2,00,000/-, granting Rs.5000/- per percentage, which is totally incorrect.

8. Per contra, the learned counsel for the second respondent Mrs.R.Sree Vidhya would vehemently contend that in consideration of the medical records, Ex.P4 – Discharge Summary, the Tribunal fixed disability as 40% and granted Rs.5000/- per percentage for partial permanent disability and the other amounts granted under different heads are also reasonable and hence sought for confirmation of the award passed by the Tribunal.

9. The manner in which the accident took place is not in dispute. It has come on record through the evidence of P.W.1, that the claimant suffered right acetabulum fracture and he was admitted at Hosur Government Hospital on 24.01.2007 and on the next day, he was shifted to Bangalore Sparsh Hospital, where he was under treatment till 04.02.2017.

10. As per Ex.P4 – Discharge Summary issued by the Bangalore Sparsh Hospital, on 28.01.2017, he underwent surgery where open reduction and internal fixation with eight holed plate and screw was done. For right foot injury, wound debridement was done. Again on 01.02.2017, open reduction and internal fixation posterior wall of right acetabulum was done.



11. Comminuted displaced acetabulum fracture is a severe break in the hip socket where the bone shatters into multiple pieces and the bone pieces would have moved out of alignment and for that, the claimant underwent surgery.

12. It is the evidence of P.W.1 that, he had significant pain. It is relevant to note that the femoral head / ball of the hip is not fixed correctly in the socket, which would result in hip dislocations and nerve damage. The claimant had suffered comminuted displaced fracture of right acetabulum. In these cases, recovery involves a long period of non-weight bearing on the injured leg. The claimant was 20 years old person who was pursuing 3rd year B.E degree. Ex.C1 - Disability Certificate explicates that as regards the effects of the said fracture, it affects the daily life of the injurer. Ex.P1 is the B.E. Decree Certificate of the claimant in Marine Engineering. As a Marine Engineer, he is expected to sit, work, climb etc., and the Medical Board assessed his disability as 40%.

13. The claimant definitely would have difficulties in weight bearing, climbing stairs, squatting, etc. The Hon'ble Supreme Court has issued guidelines while invoking the multiplier method in injury cases. In **Raj Kumar vs. Ajay Kumar** reported in **[(2011) 1 SCC 343]**, the principles have also been summarised, which are given hereunder:-



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“(i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.

(ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that percentage of loss of earning capacity is the same as percentage of permanent disability).

(iii) The doctor who treated an injured-claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.

(iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors."

14. In ***T.J.Parameshwarappa vs. The Branch Manager, New India Assurance Company Limited [Civil Appeal No.8598 & 8599 of 2022 dated 18.11.2022]***, the Hon'ble Supreme Court has held that the same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job,



age, education and other factors.

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15. Further, the District Medical Board has assessed his disability as 40%. It is relevant to note that open deduction and internal fixation with eight holed plate and screws was done for hip bone fracture. In consideration of the above said details, his functional disability is fixed as 35%. Due to Acetabulum fracture, the Claimant would face difficulties during his walk as Marine Engineer, and in order to do substantial justice to the claimant, multiplier method is invoked. His income has been fixed as Rs.10,000/- at the relevant point of time. There is no issue as to the age of the claimant at the relevant point of time. For computing loss of future income, the following formula emerges:-

$$\text{Rs.10,000/-} \times 12 \times 18 \text{ m} \times 35\% = \text{Rs.7,56,000/-}$$

16. For pain and suffering and for loss of amenities, a sum of Rs.25,000/- under each head is granted in addition to the amounts already granted by the Tribunal. For extra nourishment, for transportation expenses and for attender charges a sum of Rs.10,000/- is granted under each head in addition to the amounts already granted by the Tribunal. As regards the other heads, the amounts awarded by the Tribunal appears to be reasonable and acceptable and does not warrant interference by this Court. The amounts awarded by this Court as mentioned supra after rework is tabulated



hereunder:-

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Sl. No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced
1	For Loss of Income	2,00,000/-	7,56,000/-	Enhanced
2	For Medical expenses	2,26,352/-	2,26,352/-	Confirmed
3	For Future Medical Expenditure	5,000/-	5,000/-	Confirmed
4	For Pain and Sufferings	5,000/-	30,000/-	Enhanced
5.	For Loss of Amenities	5,000/-	30,000/-	Enhanced
6.	For Extra Nourishment	2,000/-	12,000/-	Enhanced
7.	For Transport Expenses	2,000/-	12,000/-	Enhanced
8.	For Attender Charges	2,000/-	12,000/-	Enhanced
9	For Partial Loss of Income (3 x 10,000/-)	30,000/-	30,000/-	Confirmed
	Total	Rs.4,77,352/-	Rs.11,13,352/- Rounded off as Rs.11,13,400/-	Enhanced

17. Thus, the compensation awarded by the Tribunal is enhanced from Rs.4,77,352/- to Rs.11,13,400/-, which would carry interest at the rate of 7.5% per annum (excluding the period of default if any) from the date of petition till the date of realisation.

18. In the result,



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(i) The Civil Miscellaneous Appeal stands partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.4,77,352/- to Rs.11,13,400/-.

(iii) The Insurance Company is directed to deposit the enhanced compensation amount now determined by this Court i.e., Rs.11,13,400/- (less the amount already deposited if any) together with interest at the rate of 7.5% per annum (excluding the period of default if any) from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.348 of 2019 on the file of Motor Accidents Claims Tribunal / Additional District Court, Hosur, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the claimant is permitted to withdraw the amount now determined by this Court along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal.

(v) The claimant is directed to pay the Court fee for the enhanced compensation amount, if required.



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(vi) The Tribunal below shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimant.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No

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Copy to

1. The Motor Accident Claims Tribunal / Additional District Court, Hosur.
2. The Section Officer,
VR Section,
High Court, Madras.



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R. KALAIMATHI, J.

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