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CMA.No.1290 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 27.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.1290 of 2024

Minor Tamilmani s/o Kumar
rep. by next friend mother Sivagami

... Appellant

Vs.

1. Rakkiyannan

2. New India Assurance Company Limited,
Divisional Office, Sethu Krishna Trade Centre,
Trichy Main Road, Salem.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 to enhance the compensation awarded in MCOP No.866 of 2022, dated 01.12.2023, on the file of the Special District Judge, Motor Accident Claims Tribunal, Salem.

For appellant : Ms.G.Santhani

For Respondents : Mr.K.Thirunavukkarasu
for second respondent



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JUDGMENT

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

2. It is the case of the appellant that when he was walking near Semmandapatti G.H. on 10.03.2020 on the extreme left side of the road, a two wheeler belonging to the first respondent, insured with the second respondent came in a rash and negligent manner and hit against him from behind. As a result of accident, he suffered fracture in his left leg and he was admitted in government hospital and treated as inpatient for 8 days. Therefore, he filed a claim petition, represented by his mother, seeking compensation of Rs.15,00,000/- before the Tribunal.

3. The first respondent, owner of the vehicle remained exparte and the claim petition was resisted by the second respondent/ insurance company on the ground that the accident had occurred only due to the sudden crossing of the road by the claimant.



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4. The Tribunal, based on the evidence of PW1 and the contents in the FIR, fixed the negligence on the part of the driver of the two wheeler, insured with the second respondent. The compensation payable to the claimant was quantified at Rs.85,000/-. Not satisfied with the quantum of compensation, the claimant has filed the present appeal.

5. Since no arguments was advanced by the learned counsel for the appellant as well as the second respondent with regard to the questions of liability and negligence, the facts necessary to decide those questions are not considered in this appeal.

6. The learned counsel for the appellant/claimant submits that as per Ex.C1 disability certificate, the disability suffered by the claimant was assessed at 15% and the Tribunal committed an error in awarding only a sum of Rs.4000/- per percentage of the disability. He further submits that the amount awarded by the Tribunal under the head pain and sufferings appears to be on lower side and hence the same requires enhancement.

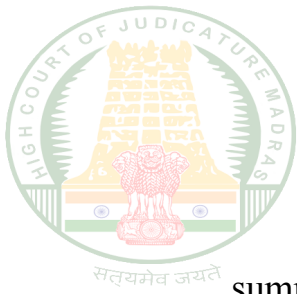


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7. It is seen from the observation of the Tribunal that the claimant suffered fracture in his left leg and the medical Board issued disability certificate Ex.C1, assessing permanent disability at 15%. Since there is no evidence to establish that the disability suffered by the claimant affected his avocation and the same resulted in functional disability, the Tribunal was justified in granting compensation on percentage basis. However, the Tribunal granted only a sum of Rs.4000/- per percentage of the disability. The accident had occurred in the year 2020. Therefore, taking into consideration the year of accident and cost of living, this court is inclined to fix a sum of Rs.8000/- per percentage of disability. Therefore, the claimant is entitled to Rs.1,20,000/- under the head loss of permanent disability.

8. Having regard to the nature of injury suffered by the claimant, the amount of Rs.15,000/- awarded under the head pain and sufferings is enhanced to Rs.20,000/-. In addition to the above amount, the claimant is also entitled to a sum of Rs.10,000/- towards extra nourishment and attender charges. Having regard to the fact that the claimant was in hospital for nearly 8 days and as per Ex.P4 discharge



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summary, the amount of Rs.10,000/- awarded by the Tribunal towards medical expenses is confirmed.

9. Accordingly, the compensation awarded by the Tribunal is modified as under:

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Partial permanent disability	60,000	1,20,000	enhanced
2.	Pain and sufferings	15,000	20,000	enhanced
3.	Extra nourishment and attender charges	--	10,000	granted
4.	Medical expenses	10,000	10,000	confirmed
	Total	85,000	1,60,000	enhanced by 75,000

10. With the above modifications, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.85,000/- is hereby enhanced to **Rs.1,60,000/-** together with interest at 7.5% per annum from the date of claim petition till the date of deposit.



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11. 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 being made, the claimant shall be permitted to withdraw the compensation amount along with interest and costs, less the amount if any, already withdrawn, subject to satisfying the Tribunal about the attainment of majority by the claimant and by making formal application before the Tribunal.

There shall be no order as to costs.

27.03.2025

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

1. The Special District Judge,
Motor Accident Claims Tribunal,
Salem.
2. The Section Officer,
V.R.Section, Madras High Court.



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S.SOUNTHAR, J.

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