



CMA No.2034 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2025

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.2034 of 2023

A.Rajaguru

... Appellant

Vs.

1.A.S.Vijayakumar
2.National Insurance Company Ltd.,
Motor Third party cell,
No.46, III Floor, Moore Street,
Chennai-600 001.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the judgement and decree dated 19.09.2019 passed in MCOP.No.713 of 2017 by the Special Judge -II, Motor Accident Claims Tribunal, Court of Small Causes, Chennai – 104.

For Appellant	: M/s.Subadra for Mr.M.Pachaiyappan
For R2	: Mrs.R.Sreevidhya
For R1	: Unclaimed

JUDGMENT

The appellant has filed this appeal against the award passed in MCOP.No.713 of 2017 by the learned Special Judge -II, Motor Accident Claims Tribunal, Court of Small Causes, Chennai, dated 19.09.2019.



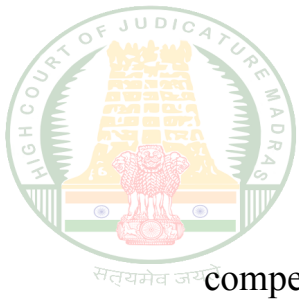
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2. The brief facts of the case of the appellant/claimant are as follows:

On 15.08.2016, at about 18.30 hours, while the appellant / petitioner was travelling as a passenger in a car bearing Registration NO.TN-19-K-9025 on the Nagalapuram to Uthukottai Road, from Kailasa Kona towards Chennai, near Nandhanam Flyover, the driver of the said car drove it in a rash and negligent manner, endangering public safety, and dashed against a Neem tree. In the said accident, the appellant sustained grievous injuries. The accident occurred solely due to the rash and negligent driving of the car bearing Registration No.TN-19-K-9025. Since the 1st respondent is the owner of the vehicle and the 2nd respondent is the insurer.

3. The learned counsel for the appellant submitted that appellant had sustained a grossly Comminuted Four-part fracture of left humerus with an impacted articular surface, along with a head injury and multiple injuries all over the body. He underwent treatment in the hospital for about two weeks. Ever after surgery, he has not fully recovered. The disability was certified by the doctor- P.W.2, at 64%, but the Tribunal failed to properly appreciate the same. Hence, he prayed for enhancement of



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compensation.
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4. The learned counsel for the second respondent / insurance company raised objections, contending that the Doctor, P.W.2. Who issued the certificate, was neither the treating doctor nor a member of the medical board. Therefore, the tribunal had rightly fixed the disability at 10% partial permanent disability. It was further submitted that the amounts awarded under the other heads were reasonable and required no interference.

5. On considering the submissions of both sides and the facts, it is evident that the accident occurred in the year 2016, in which the appellant sustained a fracture and grievous injuries. As per the medical records marked as Exs.P3, P6 and P8, the appellant had already undergone surgery for the said fracture. Though P.W.2 the doctor certified 60% functional disability, he was not the treating doctor at the relevant time. Even so, considering the nature and gravity of the injuries, this Court is inclined to enhance the assessed disability from 10% to 30%.



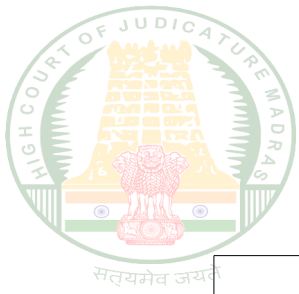
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6. Since, the accident occurred in the year 2016, this court fixes compensation at the rate of Rs.5,000/- per percentage of disability. Accordingly, a sum of Rs. 1,50,000/- (Rs. 5,000 x 30%) is awarded towards partial permanent disability. Consequently, the order passed by the Tribunal is modified and enhanced to this extent. Due to the accident, the appellant would have been unable to attend to his regular work for at least five months. Therefore, a sum of Rs.80,000/- (Rs.16,000 x 5 months) is awarded towards loss of income during the period of treatment and recovery. Additionally, the amount awarded by the Tribunal under the heads of Pain and Suffering and Extra Nourishment are enhanced to Rs25,000/-, and Rs.15,000/- respectively. The compensation awarded under the other heads by the Tribunal is confirmed.

7. The following tabular column sets out the amounts awarded by the Tribunal and the enhanced amounts awarded by this Court under various heads:

Sl. No	Heads	Amount (in Rs.) awarded by the	Amount (in Rs.) awarded by the
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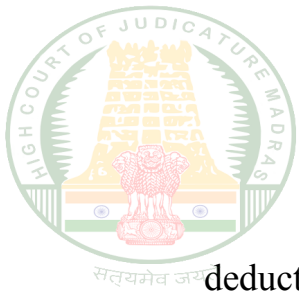
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		Tribunal	High Court
1.	Disability	30,000	1,50,000
2.	Pain and suffering	20,000	25,000
3.	Extra nourishment	10,000	15,000
4.	Transportation	10,000	10,000
4.	Loss of income	26,000	80,000
5.	Medical expenses	25,923	25,923
	Total	Rs.1,21,923/-	Rs.3,05,923/-
	Rounded off	Rs.1,22,000/-	Rs.3,06,000/-

Thus, the compensation awarded by the Tribunal is enhanced from Rs.1,22,000/- to Rs.3,06,000/-, which shall carry interest at the rate of 7.5% per annum.

8. In the result:

- i. The Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs.
- ii. The compensation awarded by the Tribunal is enhanced from Rs.1,22,000/- to Rs.3,06,000/-.
- iii. The appellant/claimant is directed to pay the Court fee for the enhanced compensation amount, if any. The Registry is directed to draft the decree only after the receipt of the Court fee.
- iv. The 2nd respondent / National Insurance company is directed to deposit the enhanced compensation amount, i.e., Rs.3,06,000/- (after



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deducting the amount already deposited), together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of realization, to the credit of MCOP.No.713 of 2017 on the file of the Special Judge-II, the Motor Accident Claims Tribunal, Court of Small Causes, Chennai, within a period of eight weeks from the date of receipt or uploading of a copy of this order.

v. On such deposit being made, the appellant/claimant is at liberty to withdraw the same, after following due process of law.

vi. The appellant/claimant shall not be entitled to claim interest for the period of delay, if any, in filing this appeal.

17.07.2025

Index:Yes/No
Speaking/non Speaking order
Neutral Case citation: yes/no

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To

1. The Special Judge-II, the Motor Accident Claims Tribunal, Court of Small Causes, Chennai.

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2. National Insurance Company Ltd.,
Motor Third party cell,
No.46, III Floor, Moore Street,
Chennai-600 001.
3. The Section Officer, V.R. Section,
High Court of Madras.

T.V.THAMILSELVI, J.

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