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CMA No. 851 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-07-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 851 of 2024

G.Parameshwaran

Appellant

Vs

1. S D H Logistics

Saraya Ka Rasta, Behind Prince Vatika,
Opposite Section 5, Near Petrol Pumpu,
Gurgaon-122001.

2.The Oriental Insurance Company
Limited

Motor Third Party Hub, No.115,
Broadway, Chennai 600108.

3.The Managing Director
Metropolitan Transport Corporation
Ltd, Pallavan Salai, Chennai 600002.

Respondents



PRAYER:-Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicles

Act, praying to allow the present appeal award enhanced compensation in judgment and decree dated 22.11.2022 in MCOP No. 1958/2016 on the file of the motor Accidents Claims Tribunal, II-Judge, Small Causes Court, Chennai as prayed for in this CMA with cost.

For Appellant: Mr.R.Nalliyappan

For Respondents: Mr.Anton Dhanasekaran For R3
Mr.D.Bhaskaran For R2
R1 - No Appearance

JUDGMENT

Challenging the impugned award passed by the Motor Accident Claims Tribunal, II Judge, Court of Small Causes, Chennai in MCOP No.1958 of 2016, dated 22.11.2022, the appellant/petitioner preferred Civil Miscellaneous Appeal.

2. For the sake of convenience, the parties are denoted as per the ranking in the claim petition.

3. The case of the petitioner is that on 02.03.2016 at about 09.00 hrs. the petitioner was riding the two wheeler bearing Regn. No. TN-19 B-1980 in the



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GST Road at Irumbuliyur over bridge down towards Tambaram direction, at that time, the driver drove the lorry bearing Regn. No.HR-55 L-6041 came from behind in a rash and negligent manner without any signal or sound, hit against motorcycle. In the impact, the petitioner was fell down from his two wheeler, however the bus bearing Regn.No. TN-01 N-4536 came from same direction in a rash and negligent manner run over the petitioner's right leg and sustained grievous injuries, for which he underwent treatment in the hospital. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation of Rs.78,00,000/-.

4. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the rider of the 1st respondent. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.32,08,462/- various heads as follows:



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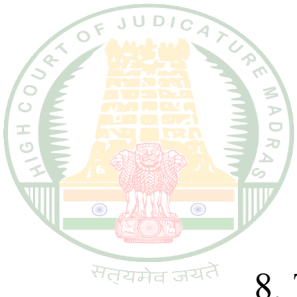


S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Disability	28,22,400
2.	Pain and sufferings	1,00,000
3.	Loss of earning during treatment	45,000
4.	Medical expenses	21,062
5.	Loss of amenities	1,00,000
6.	Attender charges	20,000
7.	Transportation charges	50,000
8.	Extra nourishment	50,000
	Total	32,08,462

5.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

6.The petitioner aggrieved by the quantum of compensation fixed by the Tribunal has preferred the present appeal before this Court.

7. The learned counsel for appellant would submit that the injured was a driver by profession and due to amputation of his right leg, 100% disability ought to have considered by the tribunal, but only 70% was fixed as such is need to be enhanced.



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8. The learned counsel for 2nd respondent insurance company argues that though the injured was having driving licence to drive the vehicle, there is no proof that he was a driver by profession. Hence, he raised strong objections.

9. The learned counsel for 3rd respondent transport corporation stated that the accident was happened due to the negligent act of lorry driver, who hit the two wheeler, due to which the injured was fallen down. Therefore, the negligence on the part of lorry driver alone is to be taken into consideration.

10. Heard both sides.

11. Considering submissions of both sides and on perusal of records, it is an undisputed fact that due to the hit of lorry driver, the injured fallen down, but the upcoming vehicle/bus ran over on his leg, due to which he sustained grievous injuries and his right leg was amputated. Furthermore, admittedly, there is no proof that he is a driver. Hence, 100% disability not to be taken into consideration as rightly observed by the tribunal, but to that effect, the



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objections raised by the appellant is not sustainable. But, on seeing the facts, the accident was happened in the year 2016 and he was aged about 31 years and he was a car driver. So considering the cost of living at that time, this Court is inclined to enhance the sum awarded towards notional monthly income from Rs.15,000/- to Rs.16,000/- and multiplier arrived by the tribunal as 16 is confirmed. The petitioner taken treatment for several days, expenses for the attender would have also been occurred. Hence, this Court is inclined to enhance the sum awarded towards attender charges from Rs.20,000/- to Rs.40,000/-. However, considering the fact that his right leg was amputated, this court is inclined to award a sum of Rs.2,00,000/- towards fixing of artificial limb. The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.

12.In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:



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S.No	Compensation awarded under the head	Amount awarded by the tribunal (in Rs.)	Amount (in Rs.)	Award confirmed or granted or enhanced
1.	Disability (Rs.16000 (add 40% future prospects) Rs.16000 + 6400 = 22400 Rs.22400 x 12 x 16 x 70% = Rs.30,10,560/-	28,22,400	30,10,560	enhanced
2.	Pain and sufferings	1,00,000	1,00,000	confirmed
3.	Loss of earning during treatment	45,000	45,000	confirmed
4.	Medical expenses	21,062	21,062	confirmed
5.	Loss of amenities	1,00,000	1,00,000	confirmed
6.	Attender charges	20,000	40,000	enhanced
7.	Transportation charges	50,000	50,000	confirmed
8.	Extra nourishment	50,000	50,000	confirmed
9.	Cost of artificial limb and its maintenance		2,00,000	awarded
	Total	32,08,462/-	34,55,560	enhanced

13. The compensation awarded by the tribunal at Rs.32,08,462/- is enhanced to Rs.34,55,560/-. The 2nd respondent insurance company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of eight weeks from the date of receipt of copy of this



judgment. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants. The other directions issued by the

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Tribunal with regard to the mode of payment of compensation remains unaltered.

14. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

03-07-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Motor Accident Claims Tribunal, II Judge, Court of Small Causes, Chennai.

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



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T.V.THAMILSELVI J.

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