



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-06-2025

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THE HONOURABLE MRS JUSTICE T.V.THAMILSELVI

CMA No. 1308 of 2025

Balaji

Appellant

Vs

1. Prakash

2. Ravindra Raja

3. The Manager

Shriram General Insurance Co. Ltd., E-
8, EPIP, Sitapura Industrial Area,
Jaipur, Rajasthan - 302 022.

Respondent(s)

PRAYER :- Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicles Act praying to set aside the judgment and decree dated 05.07.2023 in MCOP No.313/2020 on the file of Special Subordinate Judge, Krishnagiri.

For Appellant(s): Mr. P.Dineshkumar

For Respondent(s): Rr 1 and 2 Dispensed With
Mrs.R.Sreevidhya For R3



JUDGMENT

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The claimant not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.313 of 2020, dated 05.07.2023 has preferred this appeal seeking for enhancement of compensation.

2.The case of the claimant is that the petitioner was riding his two wheeler bearing Regn. No. TN-70 Y-4318 with his friend as pillion rider in Hosur to Bangalore NH Road. While nearing ESI Hospital junction, the driver of TATA ACE bearing Regn. No. KA-51-A-8169 drove it in a rash and negligent manner without any signal or sound took U turn from Bangalore to Hosur Road and turned towards Hosur to Bangalore road, dashed the petitioner's two wheeler and caused an accident. Due to which, the claimant sustained injuries, for which he underwent treatment in the hospital. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3.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

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Tribunal fixed the total compensation payable at Rs.3,90,000/- under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Disability	1,50,000
2.	Medical Expenses	86,900
3.	Pain and Suffering	50,000
4.	Transportation expenses	10,000
5.	Additional nourishment	14,000
6.	Damages to cloths	1,100
7.	Loss of income	12,000
8.	Loss of amenities	50,000
9.	Future medical expenses	10,000
10.	Attender charges	6,000
	Total	3,90,000

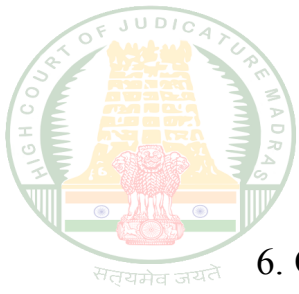
4.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.



5. The claimants not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal before this Court seeking

for enhancement of compensation by raising the following grounds :-

- (1) The Tribunal below erred in fixing the liability on the respondents vehicle 80% and 20% contributory negligence on the appellant. The tribunal below erred in awarding very less amount as compensation for the grievous injuries of appellant in the road accident, hence, the appellant herein is preferring the present appeal for enhancement of compensation.
- (2) The tribunal below failed to consider that the appellant sustained grievous injuries (head injury and face fracture) and on account of the grievous injuries, the appellant could not continue his work as Saloon shop. Hence, the court below ought to have applied multiplier method according to II Schedule of Motor Vehicles Act for calculating future loss of income.
- (3) The Tribunal below erred in the Medical Board assessed the permanent disability 30% without any contra evidence and without narrating proper reason. The court below ought to have adopted only percentage method and takes per percentage 5000/- only of disability ought to have fixed the percentage of permanent disability as assessed by Medical Board.



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6. On perusal of award passed by the Tribunal below, the fact reveals that at the time of accident, the claimant was the student. So, the notional income was fixed for six months. On considering the injuries as well as treatment period, the learned Tribunal fixed two months for loss of income, but the learned counsel for appellant argues that due to the injuries sustained, he was not able to move outside and nearly about six months, he was not able to move and restrained in his house. Hence, six months period is to be taken for loss of income. By relying the discharge summary, the learned counsel for respondent would submit that only 7 days, he is in hospital, but however on seeing the grievous injury, this Court is inclined to modify the treatment period from two months to six months. Furthermore, the learned Tribunal had fixed two months for loss of income, but on seeing the grievous injury, this Court is inclined to modify the period for loss of income as four months. The accident was happened in the year 2018. Therefore, on considering the cost of living, this Court is inclined to fix the notional income as Rs.8000/- per month. The compensation that has been fixed under the other heads are reasonable and does



not require the interference of this Court.

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

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Disability (30% x Rs.5000)	1,50,000
2.	Medical Expenses	86,900
3.	Pain and Suffering	50,000
4.	Transportation expenses	10,000
5.	Additional nourishment	14,000
6.	Damages to cloths	1,100
7.	Loss of income	32,000
8.	Loss of amenities	50,000
9.	Future medical expenses	10,000
10.	Attender charges	6,000
	Total	4,10,000

8. The compensation awarded by the tribunal at Rs.3,90,000/- is enhanced to Rs.4,10,000/-. The second respondent insurance company is directed to deposit the enhanced compensation of Rs.4,10,000/-, 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 four weeks from the date of receipt 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. It goes without saying that the enhanced compensation that is paid by the Insurance Company can be recovered from the owner of the vehicle as was ordered by the Tribunal.

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

02-06-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Motor Vehicle Claims Tribunal, Special Subordinate Judge, Krishnagiri.

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



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T.V.THAMILSELVI J.

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