



C.M.A.No.2145 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.2145 of 2021

Anthony Cruse

...Appellant

Vs.

1.Uma Madhesh

2.Madhavan

*(Since R1 and R2 remained exparte before the
Tribunal their presence may be dispensed with)*

3.The National Insurance Company Limited,

No.9, Infantry Road,

Near Alangar Theatre,

Vellore – 632 001.

...Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor

Vehicles Act, 1988, against the Judgment and Decree dated 31.01.2020



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and made in M.A.C.T.O.P.No.1322 of 2017 on the file of the Motor Accident Claims Tribunal and Special Sub Judge, Tiruvannamalai.

For Appellant : Ms.M.Malar

For Respondents : R1 & R2 – exparte before the
Tribunal vide dated 27.04.2021
Mr.J.Michael Visuvasam for R3

J U D G M E N T

This appeal is filed by the appellant challenging the judgment and decree passed by the Motor Vehicle Accidents Claims Tribunal, and Special Sub Judge, Tiruvannamalai in M.A.C.T.O.P.No.1322 of 2017 dated 31.01.2020.

2.For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.

3.The brief facts of the case are as follows:

On 03.09.2017 at about 1.00 p.m., when the petitioner was going in a TVS-50-XL bearing Registration No.TN-25-BC-6602 in order to



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give marriage invitation of his daughter Alexmary to the relatives on Avoor to Zamin Guddalore Road and parked the vehicle on the left side of the road to attend natural call near Vayalur Sinkara Udaiyar land. At that time, a Mahendra Scorpio Car bearing Registration No.TN-07-BP-1280 came from opposite side and driven by its driver in a rash and negligent manner and dashed against the petitioner and the petitioner sustained multiple grievous injuries on his right leg, right side hip, chest, right leg and all over the body. Immediately, the petitioner was taken to the Government Hospital, Tiruvannamalai by 108 Amulance, he was treated as an inpatient. A case was registered in Crime No.508/2017 under Sections 279, 337 of IPC by Vettavalam Police. The petitioner filed a claim petition before the Tribunal in M.C.A.T.O.P.No.1322 of 2017, the Tribunal awarded a sum of Rs.3,12,000/- as compensation. Aggrieved by the same, the present appeal has been filed.

4.Learned counsel appearing for the appellant submitted that though the Medical Board assessed the ability of the appellant and opined that the appellant sustained 50% permanent disability, the



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compensation awarded by the Tribunal is very meagre and requested this Court to enhance the compensation. Hence, she prayed to allow the appeal.

5.Per contra, learned counsel appearing for the third respondent submitted that after considering the oral and documentary evidence, the Tribunal awarded the compensation which is just and reasonable and no interference is required by this Court. Hence, he prayed for dismissal of the appeal.

6.Heard learned counsel appearing for the appellant as well as the learned counsel appearing for the third respondent and perused the materials available on record.

7.Before the Tribunal, the petitioner was examined as PW1 and on the side of the petitioner, 13 documents were marked as Exs.P1 to P13. On the side of the third respondent, Mr.Sakthivel, Junior Assistant, Regional Transport Office, Tiruvannamalai was examined as RW1 and no



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document was marked. A copy of the Wound Certificate of PW1 was marked as Court document.

8.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only seeking enhancement of compensation. Hence, there is no need for any discussion with regard to negligence.

9.The Tribunal after elaborately discussing the factual aspects awarded a sum of Rs.1,50,000/- for permanent disability, Rs.50,000/- for pain & suffering, Rs.25,000/- for loss of comfort, Rs.25,000/- for extra nourishment and loss of articles, Rs.20,000/- for attender charges, Rs.10,000/- for transport expenses, Rs.32,000/- for loss of income (for 4 months) and arrived at a total compensation of Rs.3,12,000/- with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.



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10. On perusal of the records, it is seen that the Medical Board assessed the disability of the appellant and opined that the appellant sustained 50% permanent disability. Therefore, this Court is inclined to fix Rs.7,000/- per percentage of disability for 50% permanent disability sustained by the appellant (50% x Rs.7,000/- = Rs.3,50,000/-).

11. The amount awarded under the heads attender charges, transport expenses and loss of income, in the opinion of this Court are just and reasonable and the same are confirmed. The amount awarded under the heads permanent disability, pain & suffering and extra nourishment and loss of articles in the opinion of this Court is very meagre and this Court is inclined to enhance the amount awarded under the said heads. Accordingly, the amount awarded under the head permanent disability is enhanced to Rs.3,50,000/- from Rs.1,50,000/-. Accordingly, the amount awarded under the head pain & suffering is enhanced to Rs.1,00,000/- from Rs.50,000/-. Accordingly, the amount awarded under the head extra nourishment and loss of articles is enhanced to Rs.30,000/- from Rs.25,000/-. Though the Tribunal awarded



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Rs.25,000/- for loss of comfort, this Court is not inclined to award any amount for the same as it is not necessary.

12. Accordingly, the compensation awarded by the Tribunal is re-assessed as follows:

S.No.	Description	Amount awarded by Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1.	Permanent disability (50% x Rs.7,000/-)	1,50,000/-	3,50,000/-
2.	Pain and suffering	50,000/-	1,00,000/-
3.	Extra nourishment and loss of articles	25,000/-	30,000/-
4.	Attender charges	20,000/-	20,000/-
5.	Transport expenses	10,000/-	10,000/-
6.	Loss of income (4 months)	32,000/-	32,000/-
	Total	Rs.3,12,000/-	Rs.5,42,000/-

13. The appellant/claimant is entitled to total compensation of Rs.5,42,000/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.



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14.The judgment and decree passed by the Motor Accident Claims Tribunal/Special Sub Judge, Tiruvannamalai in M.C.O.P.No.1322 of 2017 dated 31.01.2020, is modified to the above extent.

15.The third respondent Insurance Company is directed to deposit the modified/enhanced award amount before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant is permitted to withdraw the amount along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal.

16.The appellant/claimant shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The appellant/claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accident Claims Tribunal/Special Sub Judge, Tiruvannamalai, shall disburse the enhanced amount upon



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production of certified copy showing proof of payment of Court fee by the appellant/claimant.

17.The Civil Miscellaneous Appeal is partly allowed with the above terms. No costs.

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Index: Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To

- 1.The Motor Accidents Claims Tribunal,
Special Sub Judge, Tiruvannamalai.
- 2.The Section Officer,
VR Section,
High Court of Madras, Chennai – 600 104.



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M.DHANDAPANI, J.

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