



CMA.No.1814 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :03.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.1814 of 2021 and
C.M.P.No.9778 of 2021

National Insurance Company Limited
No.46, Moores Road,
Chennai-600 001

... Appellant

Vs.

1.C.Mani
2.A.Saroja

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, against the award and decree dated 23/02/2021 made in MCOP No. 5105 of 2016 on the file of the Motor Accident Claims Tribunal, V Court of Small Causes, Chennai.

For Appellants : Mr.D.Bhaskaran

For Respondent : Mr.P.Chinnaraj for R1

R2-Dismissed vide C/o Dated 30.07.2025

JUDGMENT

Aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, the appellant/Insurance company has come before this Court by way of this appeal.



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2. It is not in dispute that 1st respondent/claimant met with an accident involving the Maruti Omni van belonged to the 2nd respondent insured with the appellant on 07.06.2016. Both the learned counsel for the appellant as well as 1st respondent/claimant have not advanced any arguments on the questions of negligence and liability. Hence, the facts necessary to decide those questions are not discussed in this appeal.

3. The learned counsel for the appellant submitted that absolutely there is no evidence available on record to show that the injury suffered by the claimant interfered with his avocation and hence, the Tribunal committed a serious error in applying multiplier method in calculating compensation. The learned counsel also submitted that the amount awarded by the Tribunal under various other heads like pain and suffering, Extra nourishment and Transportation, loss of amenities are on the higher side.

4. The learned counsel for the 1st respondent/claimant submitted that as a result of the road accident, the claimant suffered head injury and he had been in treatment for more than six months. He further submitted that the head injury suffered by him made him unsuitable for



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doing any manual work and therefore, the Tribunal was justified in applying multiplier method. He also submitted that the Tribunal has not awarded any amount under the head loss of earning during treatment period.

5. The Ex.P3 is the discharge summary issued by the Rajiv Gandhi Government General Hospital, Chennai. A perusal of the same would suggest that as a result of the accident, the claimant suffered head injury and he underwent CT scan for chest and abdomen and he was discharged on the date of admission itself. The Ex.P4 is the discharge summary issued by the Ramachandra Medical College and Hospital. A perusal of the same would indicate that victim was admitted on 18.06.2016 and discharged on 22.06.2016. The final diagnosis noted in the discharge summary reads as follows:-

- 1) Post Traumatic Amnesia- Recovered
- 2) Old Tuberculosis Sequelae

6. It is also seen from the discharge summary that MRI-Brain was done and there was no significant adverse findings except old calcified granuloma with no surrounding edema. It was also noted at



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7.The Ex.P5 is an outpatient slip issued by the Ramachandra Hospital and the same would indicate that patient was treated for hiccup and related illness for some time. The Ex.P6 is the discharge summary issued by the Ramachandra Hospital. A perusal of the same would indicate that victim was admitted on 20.02.2017 and was discharged on 24.02.2017. In the discharge summary, it is also clearly noted that the patient was recovered from Post Traumatic Amnesia. He was admitted for vomiting. MRI Brain was performed and there was no significant finding in the MRI except earlier finding with regard to old calcified granuloma with no surrounding edema and diffuse age related cerebral atrophy. Therefore, a perusal of the three discharge summaries marked before the Tribunal would indicate that the normal activities of the claimant has not been affected due to the head injury.

8. The Ex.C1 is the disability certificate issued by the medical board. A reading of the same would indicate that the disability suffered by the claimant was assessed at 50%. However, there is no indication



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in the disability certificate that the claimant is suffering from any kind of difficulty in performing manual work. The claimant was examined as P.W.1 before the Tribunal. Even though he asserted in the proof affidavit that after accident he could not do any work on account of injury, in the cross-examination he clearly admitted that the injury suffered by him due to the accident got cured completely. The claimant was able to appear before the Tribunal and depose cogently and the Tribunal has not noted any physical infirmity in him. In these circumstances, the submission made by the learned counsel as if the claimant is suffering from some kind of physical infirmity so as to prevent him from doing manual work is not acceptable to this Court. In the absence of any positive evidence to show injury suffered by the claimant interfered with his avocation, the Tribunal was not justified in applying multiplier method. Therefore, this Court proceeds to compensate the victim by following percentage basis. The accident had occurred in the year 2016. Therefore, it would be appropriate to fix Rs.5000/- per percentage of the disability. Since the medical board assessed the disability at 50%, the claimant is entitled to Rs.2,50,000/-



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under the head disability.

9.It is seen from the various discharge slips referred above, the accident had occurred on 07.06.2016 and the claimant has been in treatment intermittently till February 2017. Therefore, the accident could have kept the claimant out of action for nearly 8 months. Therefore, he is entitled to Rs.1,20,000/- under the head loss of income during treatment period (15,000 x 8).

10. Taking into consideration the nature of injury suffered by the claimant and the period of hospital stay, this Court feels the amount of Rs.50,000/- each awarded under the heads pain and sufferings, Extra nourishment and transportation charges is on the higher side. Therefore, the claimant is entitled to Rs.40,000/- under the head pain and sufferings and Rs.30,000/- under the head Extra nourishment and transportation charges. Since the claimant is compensated only on a percentage basis, he is entitled to substantial amount under the head loss of amenities. The Tribunal awarded Rs.50,000/- under the head loss of amenities and the same is reduced to Rs.40,000/-. In all, the claimant is entitled to Rs.4,90,701/-



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11. In view of the discussions made earlier, the compensation awarded by the Tribunal is modified as follows:-

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Pain and Suffering	50,000/-	40,000/-	Reduced
2.	Medical Expenses	6,401/-	6,401/-	Confirmed
3.	Extra Nourishments and Transportation	50,000/-	30,000/-	Reduced
4.	Loss of amenities	50,000/-	40,000/-	Reduced
5.	Damage to clothes	1000/-	1000/-	Confirmed
6.	Attender charges	3,300/-	3,300/-	Confirmed
7.	Loss of earning due to disability	5,34,600/-	2,50,000/-	Reduced
8	Loss of income during treatment period	Nil	1,20,000/-	Granted
	Total	6,95,301/-	4,90,701/-	Reduced by Rs.2,04,600 /-



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12. The Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.6,95,301/- is reduced to Rs.4,90,701/-. It is stated by the learned counsel for the appellant/insurance company that the appellant already deposited 50% of the award amount. Therefore, the appellant is directed to deposit the balance amount together with interest as per the modified award within a period of four weeks from the date of receipt of copy of this judgment. The 1st respondent/claimant is permitted to withdraw the same along with interests and costs, less the amount if any, already withdrawn by filing a formal application before the Tribunal. Consequently, the connected miscellaneous petition is closed. No costs.

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Index:Yes/No
Internet:Yes/No
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To

1. Motor Accident Claims Tribunal,
V Court of Small Causes, Chennai.
2. The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

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