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CMA No. 1027 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-08-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1027 of 2025

S.Raj

Appellant

Vs

1. Annai Metals

2.The Manager, Reliance General Insurance Co.Ltd.

No. 6, 4th Floor, Reliance House, Haddows Road,
Nungambakkam, Chennai-06. Current Address Chennai
City Centre, 5th Floor, No. (10 and 11) Dr.Radhakrishnan
Road, Mylapore, Chennai-004.

(1st Respondent has been set ex-parte by the Tribunal)

Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicle Act, praying to enhance the compensation awarded in the impugned Order dated 05.09.2024 made in MCOP No. 2959 of 2021 on the file of learned Motor Accident Claims Tribunal and II Judge, Court of Small Causes Court, Chennai.



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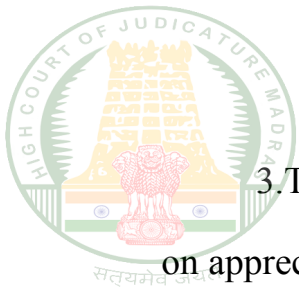
For Appellant: Mr.R.Dinesh Kumar

For Respondents: Mr.P.Suresh Srinivasan For R2
R1- Notice Dispensed With

JUDGMENT

The appellant/petitioner not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.2959 of 2021, dated 05.09.2024 has preferred this appeal seeking for enhancement of compensation.

2. The case of appellant/petitioner is that on 26.06.2021 at about 16.00 hrs., when the petitioner was riding his two wheeler bearing Regn. No. TN-11 AH-1849 from south to north opposite to Fomra Housing Building, Tambaram to Puzhal bypass road Chennai, at that time, a TATA ACE bearing Regn. No. TN-10-BF-2437, which is parking on the same direction in No parking area without any indication, due to which the petitioner's motorcycle hit behind the Tata Ace van and caused an accident. Due to which, the petitioner was thrown out and sustained right hand fracture as well as multiple grievous injuries all over the body, 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.10,00,000/-.



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 driver of the 1st respondent. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.2,12,400/- under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of income	30,400
2.	Pain and sufferings	25,000
3.	Loss of amenities and enjoyment of life	25,000
4.	Transport to hospital	2,000
5.	Extra nourishment	5,000
6.	Attender charges	5,000
7.	Compensation for continuing as permanent disability (24% x 5000)	1,20,000
	Total compensation awarded (by adding Sl. Nos. 1 to 7)	2,12,400

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



5. The petitioner 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.

6. The learned counsel for appellant would submit that at the time of accident, he was aged about 41 years and though the accident was happened in the year 2021, the tribunal had fixed only a sum of Rs.5000/- per percentage of disability. Hence, he prayed to enhance the compensation.

7. The learned counsel for 2nd respondent would submit that the accident was happened in the year 2021 and he had sustained 24% of disability, for which the tribunal has rightly awarded a sum of Rs.5000/- towards per percentage of disability. He would also submit that on considering the injuries as well as treatment period, the learned Tribunal rightly fixed two months for loss of income, which needs no interference of this court.

8. Heard and considered rival submissions made by both learned counsel for appellant as well as 2nd respondent and perused materials available on record.

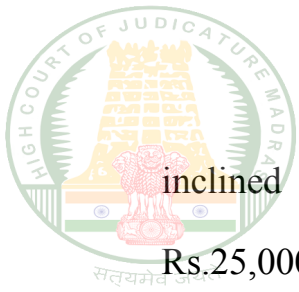
9. Considering both side submissions, the fact reveals that admittedly, he had suffered with 24% of permanent disability, for which the tribunal has



awarded only a sum of Rs.5000/- per percentage. But, on considering the petitioner's age of 41 years and the fact that the accident was happened in the year 2021 and also the fact that the appellant had sustained compound type II right middle third shaft humerus fracture and surgery was also conducted and also the fact that the medical board had assessed his disability as 24% of permanent disability, this court is inclined to enhance the sum from Rs.5000/- to Rs.9000/- towards percentage of disability.

10. Furthermore, on perusal of award, it reveals that due to the injuries sustained in the accident, the appellant had sustained compound type II right middle third shaft humerus fracture, as a result of which, he was not able to move outside and nearly about six months, he was not able to attend his avocation. However, by relying the discharge summary, the learned counsel for 2nd respondent would also submit that only 22 days, he is in hospital, but on seeing the grievous injury as well as considering his disability of compound type II right middle third shaft humerus fracture, this Court is inclined to modify the period for loss of income as four months.

11. On perusal of discharge summary, the fact reveals that he had sustained disability of compound type II right middle third shaft humerus fracture, for which he had undergone surgery, due to which he had sustained severe pain and he is unable to do his work as before. Therefore, this Court is



inclined to enhance the sum awarded towards pain and sufferings from Rs.25,000/- to Rs.50,000/-.

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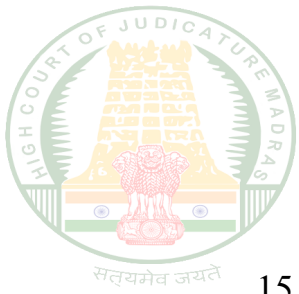
12. As he had suffered with compound type II right middle third shaft humerus fracture, he was in need of more nourishment. Hence, this Court is inclined to enhance the sum awarded towards extra nourishment from Rs.5,000/- to Rs.15,000/-. Considering the fact that during the treatment period, the petitioner required an attender and also incurred huge expenses towards transportation, for which the tribunal has awarded only a sum of Rs.5,000/- and Rs.2000/- respectively, which is on the lower side. Hence, this court is inclined to enhance the attender charges from Rs.5,000/- to Rs.9,000/- and the transport charges from Rs.2,000/- to Rs.10,000/- respectively. The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.

13. 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 awarded by the tribunal (in Rs.)	Amount (in Rs.)	Amount confirmed or granted or enhanced
1.	Partial loss of income (Rs.15,200 x 4 = 60,800)	30,400	60,800	enhanced
2.	Pain and sufferings	25,000	50,000	enhanced
3.	Loss of amenities	25,000	25,000	confirmed
4.	Transportation	2,000	10,000	enhanced
5.	Extra nourishment	5,000	15,000	enhanced
6.	Attender charges	5,000	9,000	enhanced
7.	Permanent disability (24% x Rs.9000/-)	1,20,000	2,16,000	enhanced
	Total	2,12,400	3,85,800	enhanced

14.The compensation awarded by the tribunal at Rs.2,12,400/- is enhanced to Rs.3,85,800/-. 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. On such deposit, the appellant is permitted to withdraw the enhanced award amount now determined by this court along with interest and costs, less the amount if any, already withdrawn. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



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

08-08-2025

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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