



WEB COPY



CMA.No.1041 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 09.04.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

**CMA No.1041 of 2025**

M.Sriram

... Appellant

**Vs.**

1. M/s B.Krishamoorti

2. The Manager, Oriental Insurance Co.Ltd.,  
No.116/115, Prakasam Salai,  
Chennai 600 108.

... Respondents

**Prayer:** Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 to enhance the compensation awarded in MCOP No.18 of 2020 dated 21.12.2024 on the file of the II Judge, Motor Accident Claims Tribunal, Court of Small Causes, Chennai.

For appellant : Mr.K.Balaji

For Respondents : Mr.K.Swaminathan for second respondent



CMA.No.1041 of 2025

WEB COPY

## **JUDGMENT**

Not satisfied with the quantum of compensation awarded by the Tribunal, the claimant has come before this court by filing the present appeal.

2. The first respondent remained exparte before the Tribunal and hence, notice to him is dispensed with.

3. Mr.K.Swaminathan, learned counsel takes notice for the second respondent

4. According to the claimant/injured, he suffered grievous injuries in a road accident that had taken place on 22.09.2019. It is the case of the claimant that he was riding a motor cycle on 22.09.2019 and when he came opposite to Vaipanai Gramam Ration Shop, a motor cycle belonging to the first respondent and insured with the second respondent came in a rash and negligent manner and dashed against the vehicle of the claimant. As a result of accident, the claimant sustained grievous injuries and he was treated in hospital. Hence, he filed a claim



CMA.No.1041 of 2025

WEB COPY

petition seeking compensation of Rs.25,00,000/- before the Tribunal.

5. The first respondent remained absent before the Tribunal and the claim petition was resisted by the 2<sup>nd</sup> respondent, insurer of the offending vehicle by denying the manner of accident as described in the claim petition. The 2<sup>nd</sup> respondent also disputed the age and avocation of the claimant.

6. The Tribunal, based on the evidence available on record, came to the conclusion that the accident had occurred due to the negligence on the part of the driver of the two wheeler belonging to the first respondent and insured with the second respondent. The Tribunal also found that the driver of the first respondent's vehicle did not possess valid driving licence and hence, directed the insurance company to pay a sum of Rs.3,57,700/- as compensation to the appellant/ claimant and then recover the same from the first respondent. Not satisfied with the quantum of compensation awarded by the Tribunal, the claimant has come before this court.

7. Heard the learned counsel for the appellant and the second



CMA.No.1041 of 2025

respondent/ insurance company.  
WEB COPY

8. The learned counsel for the appellant/ claimant would submit that the accident had occurred in the year 2019 and the Tribunal awarded only a sum of Rs.5,000/- per percentage of the disability and the same requires enhancement. He also submits that the compensation awarded by the Tribunal under various heads, viz., transportation charges, extra nourishment, attender charges, pain and sufferings and loss of amenities are on lower side and hence, the same need enhancement.

9. The second respondent, insurer of the vehicle would submit that having regard to the nature of injury suffered by the claimant, the compensation awarded by the Tribunal is reasonable one and therefore, this appeal is liable to be dismissed.

10. It is seen from the Ex.C1, disability certificate issued by the Medical Board that the disability suffered by claimant was assessed at 20%. Ex.P3 and Ex.P4, discharge summaries marked on the side of the



CMA.No.1041 of 2025

WEB COPY

claimant would indicate that he was hospitalized twice and totally he was treated as inpatient in hospital for 20 days. The nature of injuries suffered by the claimant as mentioned in Ex.P6, scan report was discussed by the Tribunal , which reads as follows.

*"... The Ex.P6 CT scan report also shows that the petitioner sustained comminuted undisplaced fracture of right zygomatic arch. Undisplaced fracture of right inferior orbital rim. Diastasis of right speno-zygomatic suture."*

11. It is stated by the claimant in the claim petition that he was doing agricultural work and was earning a sum of Rs.25,000/- per month. However, he has not produced any documentary evidence to show that the injuries suffered by him actually interfered with his avocation. Therefore, the Tribunal proceeded to award compensation on percentage basis. The accident had occurred in the year 2019. Having regard to the date of accident, this court feels that it would be appropriate to award atleast a sum of Rs.8,000/- per percentage of the disability. Therefore, the amount awarded under the head loss of partial permanent disability is enhanced to Rs.1,60,000/- (8000 x 20%).



CMA.No.1041 of 2025

WEB COPY

12. Having regard to the nature of injury and the period of hospitalization, the amount awarded by the Tribunal under the heads transportation charges, extra nourishment, attender charges need enhancement. Therefore, a sum of Rs.15,000/- each is awarded towards Transportation charges and extra nourishment and a sum of Rs.10,000/- is awarded under the head attender's charges.

13. The Tribunal awarded a sum of Rs.75,000/- towards pain and sufferings and mental agony, which is on higher side and hence, the same is reduced to Rs.50,000/- by modifying the head as pain and sufferings. However, the compensation of Rs.20,000/- awarded by the Tribunal towards loss of amenities is enhanced to Rs.40,000/-.

14. The Tribunal following the guide lines issued by a Division Bench of this Court in *Andal and others Vs. Avinav Kannan and others reported in 2019(1) TNMAC page 54*, fixed notional income at Rs.14,600/- and granted a sum of Rs.87,600/- towards loss of income for six months. It is seen from the records that the claimant was



WEB COPY

hospitalized for 14 days from 26.09.2019 to 09.10.2019 and subsequently, he was admitted as inpatient from 12.08.2020 to 17.08.2020 and surgery was conducted on 14.08.2020. The second hospitalization for 6 days was due to the infection of the implant. However, there is no evidence to show that the claimant was immobilized continuously. Considering the facts and circumstances of the case, this court is not inclined to disturb the compensation awarded under the head loss of income.

15. The amounts awarded under the heads medical expenses and damage to cloth are confirmed.

16. Accordingly, the compensation awarded by the Tribunal is revised as under:

| Sl. No | Description                  | Amount awarded by Tribunal (Rs) | Amount awarded by this Court (Rs) | Award confirmed or enhanced or granted |
|--------|------------------------------|---------------------------------|-----------------------------------|----------------------------------------|
| 1.     | Partial Permanent disability | 1,00,000                        | 1,60,000                          | enhanced                               |
| 2.     | Transportation charges       | 10,000                          | 15,000                            | enhanced                               |
| 3.     | Extra nourishment            | 10,000                          | 15,000                            | enhanced                               |



WEB COPY

|    |                     |          |                 |                      |
|----|---------------------|----------|-----------------|----------------------|
| 4. | Attender Charges    | 3,000    | 10,000          | enhanced             |
| 5. | Medical expenses    | 51,016-  | 51,016          | confirmed            |
| 6. | Pain and sufferings | 75,000   | 50,000          | reduced              |
| 7  | Loss of amenities   | 20,000   | 40,000          | enhanced             |
| 8  | Loss of income      | 87,600   | 87,600          | confirmed            |
| 9  | Damage to cloth     | 1,000    | 1,000           | confirmed            |
|    | Total               | 3,57,616 | <b>4,29,616</b> | enhanced             |
|    | Rounded off         | 3,57,700 | <b>4,29,700</b> | enhanced by<br>72000 |

17. With the above modifications, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.3,57,700/- is hereby enhanced to **Rs.4,29,700/-** with interest at 7.5% per annum from the date of petition till the date of deposit.

18. The **second respondent** is directed to deposit the compensation amount now determined by this Court to the credit of MCOP No.18 of 2020 on the file of II Judge, Motor Accident Claims Tribunal, Court of Small Causes, Chennai, along with interest and costs, less the amount already deposited, if any, within a period of **six weeks** from the date of receipt of a copy of this judgment. ***The finding of the Tribunal with regard to pay and recovery is confirmed.***



CMA.No.1041 of 2025

WEB COPY

19. On such deposit being made by the second respondent, the appellant/claimant shall be permitted to withdraw the compensation amount along with interest and costs, less the amount if any, already withdrawn, by making formal application before the Tribunal. There shall be no order as to costs.

**09.04.2025**

Index : Yes/No  
Speaking order : Yes/No  
Neutral citation : Yes/No  
mst

**To**

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



WEB COPY



*CMA.No.1041 of 2025*

**S.SOUNTHAR, J.**

mst

**CMA No.1041 of 2025**

**09.04.2025**