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CMA.No.3021 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CMA.No.3021 of 2021

Sathyaraj

...Appellant

Vs.

1. Venkatesan
2. The Divisional Manager,  
United India Insurance Company Ltd.,  
TP Claims Hub, No.81, Katpadi Road,  
TKM Complex, 2<sup>nd</sup> Floor, Vellore.
3. Madhavan
4. The Divisional Manager,  
Shri Ram General Insurance Company Limited,  
E-8, EPIP, RIICO,  
Sitapura, Jaipur.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, as against the judgment and decree dated 10.12.2018 made in MACTOP.No.1628 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Thiruvannamalai.



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For Appellant : M/s.M.Malar

For Respondents : Notice dispensed with, for R1, 3 and 4  
: M/s.R.Sreevidya, for R2

### **JUDGEMENT**

Challenging the judgment and decree dated 10.12.2018 made in MACTOP.No.1628 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Thiruvannamalai, the claimant is before this Court.

2. It is the case of the appellant/claimant that, on 09.02.2014 at about 9.15 pm., when he was travelling as a passenger in the Auto bearing Regn.No.TN-25-AV-9379 at Arni to Chetpet Main Road, near Vinnamangalam village owned by the 1<sup>st</sup> respondent insured with the 2<sup>nd</sup> respondent, as the driver of the said Auto in a rash and negligent manner, he dashed against the lorry bearing Regn.No.TN-23-AB-1757 owned by the 3<sup>rd</sup> respondent insured with the 4<sup>th</sup> respondent, due to which the appellant sustained multiple grievous injuries and got admitted in the hospital. Thereby,



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the appellant filed a claim petition seeking compensation of Rs.10,00,000/-.

Before the tribunal, the claimant examined himself as P.W.1 and marked exhibits P.1 to P.7 and on the side of respondents, they examined two witnesses viz., R.W.1 and R.W.2 and marked exhibits R.1 to R.3 and the Disability Certificate was marked as Court document Ex.C.1. After trial, the Tribunal, on appreciation of oral and documentary evidence, though came to a conclusion that the accident had taken place due to the rash and negligent driving on the part of the driver of the 1<sup>st</sup> respondent auto, however, awarded a meagre compensation of Rs.2,67,000/-. Challenging the same, the appellant/claimant has filed the present appeal, seeking enhancement of compensation.

3. Learned counsel appearing for the appellant submitted that, the above said accident occurred solely due to the rash and negligent driving on the part of the driver of the 1<sup>st</sup> respondent auto, due to which, the appellant sustained multiple lacerated injuries and grievous fracture injury at right leg and the medical board also assessed a permanent disability of 40% and due to the injuries sustained by him, the appellant being a Load man at Vegetable market,



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is unable to continue his avocation. However, without considering the same, the tribunal instead of adopting multiplier method had adopted percentage method, which is not sustainable. Even if it is presumed without admitting that the appellant is entitled to percentage method alone, the accident is of the year 2014, however, the tribunal had taken only a sum of Rs.3,000/- per percentage of disability and awarded a meagre compensation under the head Disability and the compensation awarded under other heads are also on lower side and the same has to necessarily be enhanced. Accordingly, she prayed for appropriate orders.

4. Per contra, the learned counsel appearing on behalf of the 2<sup>nd</sup> respondent submitted that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, she prayed for dismissal of the appeal.

5. Heard the learned counsel on either side and perused the materials available on record.



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6. The factum and manner of the accident is not disputed by the parties.

Therefore, this Court is not entering into the said aspect. The major grievance of the appellant/claimant is with regard to the quantum of compensation awarded by the Tribunal. It is claimed by the appellant that though the accident is of the year 2014, however, the Tribunal had taken only a sum of Rs.3,000/- per percentage of disability. In this regard, this Court perused Ex.C.1, the Disability certificate issued by the Medical Board and a perusal of the same reveals that the nature of injuries sustained by the appellant is lacerated injures and fracture injury and this Court is of the view that the extent of disability sustained by the appellant would not really hamper the appellant from discharging his work. Hence, this Court does not finds any fault with the percentage method adopted by the tribunal to arrive at the compensation under the head Disability and thereby, this Court is not inclined to interfere with the same.

7. At the same time, the accident is of the year 2014 and due to the above said accident, the appellant suffered disability of 40%, however, by



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erroneously adopting a sum of Rs.3,000/- per percentage of disability, the tribunal awarded a sum of Rs.1,20,000/-, which is meagre and as per the existing law at the relevant point of time, the Tribunal ought to have fixed a sum of Rs.4,000/- per percentage of disability. Hence, the amount under the head Disability stands enhanced to a sum of Rs.1,60,000 /- ( $40\% \times \text{Rs.4,000/-} = \text{Rs.1,60,000/-}$ ).

8. Insofar as the compensation awarded under other heads are concerned, the tribunal had awarded a sum of Rs.10,000/- under the head Extra nourishment, which is on the lower side and thereby, the same is enhanced to Rs.20,000/-. Further, no compensation has been awarded under the head Attender charges and thereby, this Court awards a sum of Rs.10,000/-.

9. Insofar as the compensation awarded under the other heads are concerned, this Court is of the view that the compensation awarded under other heads are just and reasonable and the same does not requires interference of this Court.



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10. In view of the above, the compensation awarded by the Tribunal is modified as under :-

| <b>Heads</b>                                | <b>Awarded by the Tribunal<br/>(Amount in Rs.)</b> | <b>Awarded by this Court<br/>(Amount in Rs.)</b> |
|---------------------------------------------|----------------------------------------------------|--------------------------------------------------|
| Disability                                  | 1,20,000/-                                         | <b>1,60,000/-</b>                                |
| Pain and sufferings                         | 50,000/-                                           | 50,000/-                                         |
| Medical and Transport Expenses              | 15,000/-                                           | 15,000/-                                         |
| Loss of earning during the treatment period | 72,000/-                                           | 72,000/-                                         |
| Extra nourishment                           | 10,000/-                                           | <b>20,000/-</b>                                  |
| Attender charges                            | -                                                  | <b>10,000/-</b>                                  |
| <b>Total</b>                                | <b>2,67,000/-</b>                                  | <b>3,27,000/-</b>                                |

11. Accordingly, this Civil Miscellaneous appeal stands allowed in part and the impugned award of the Tribunal is modified by enhancing the compensation amount from **Rs.2,67,000/-** to **Rs.3,27,000/-**. The 2<sup>nd</sup> respondent-Insurance Company is directed to deposit the said amount to the credit of MACTOP.No.1628 of 2017 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as



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awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment.

On such deposit being made, the Tribunal is directed to transfer the said amount directly to the bank account of the Appellant through RTGS within a period of two (2) weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced compensation by the appellant. It is underscored that the appellant is not entitled to any interest for the default period, if any. No Costs.

**31.01.2025**

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Index : Yes / No  
Speaking Order : Yes / No  
Neutral Citation Case : Yes / No

To

The Motor Accident Claims Tribunal, Special Sub Court,  
Thiruvannamalai.



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**M.DHANDAPANI, J.**

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