



CMA.No.435 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 09.04.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA.No.435 of 2023

E.Rolant Antony @ Rolant

... Appellants

Vs.

1.Janathan Mark Garrett,
No.73/27, Muniyappa, Chetti Street,
Paper Mills Road, Perambur,
Chennai – 11.

2.IFFCO-Tokio General Insurance Company Limited,
No.128, 4th Floor, IFFCO Bhavan,
Habibullah Road, T.Nagar,
Chennai – 17.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to allow this appeal and be pleased to enhance the amount awarded in MCOP.No.1541 of 2014 dated 28.02.2022, on the file of the Motor Accident Claims Tribunal, (III Small Causes Court), Chennai.

For Appellant :Mr.K.Varadha Kamaraj

For Respondents :Mr.J.Michael Visuvasam
for R2
R1-Notice returned



CMA.No.435 of 2023

WEB COPY

J U D G M E N T

Not satisfied with the quantum of compensation awarded by the Tribunal, the injured claimant has come before this Court.

2. According to the appellant/claimant he was a pillion rider in motorcycle and when he came near Sree Granites Perambur High Road, Chennai, a motorcycle belonged to the first respondent insured with the second respondent bearing registration No.TN-05Q-6819 came in a rash and negligent manner and dashed against the motorcycle of the injured, as a result of the accident, the claimant suffered grievous injuries and hence the petition was filed seeking compensation.

3. In spite of service of notice, the first respondent owner of the offending vehicle has not appeared before the Tribunal and hence he remained ex-parte. The claim petition was resisted by the second respondent insurer by denying the manner of accident as described in the claim petition.



WEB COPY

4. The Tribunal based on the evidence available on record came to the conclusion that the accident had occurred only due to the rash and negligent riding of motorcycle by rider of the first respondent's motorcycle. The compensation payable to the claimant was quantified at Rs.2,79,150/-. Not satisfied with the quantum of compensation, the claimant has come before this Court.

5. The learned counsel appearing for the appellant would submit that due to the accident, the claimant lost his vision in the right eye and therefore, he suffered serious disability and in light of the same, the Tribunal committed an error in not applying multiplier method.

6. The learned counsel appearing for the second respondent Insurance Company would submit that in the absence of any acceptable evidence on record to suggest that the injury suffered by the claimant interfered with the avocation of the injured, the Tribunal was justified in awarding compensation on percentage basis.



7. It is seen from Exs.P13 and P14, the claimant suffered

fracture in his frontal bone, temporal bone, maxillary sinus and orbital floor etc. It is also seen that his vision in the right eye is completely affected. The medical board which examined the claimant issued Ex.C1 fixing the disability at 40%.

8. It was stated by the claimant in the claim petition that he was appointed as a senior consultant in Sutherland Global Services (P) Limited, and at the time of accident, he was earning a sum of Rs.20,000/- per month. Admittedly, there is no evidence available on record to suggest that due to the accident suffered by the claimant he was removed from his job. Though the claimant has chosen to file Ex.P15-appointment order, he has not filed any document to show that he was removed from his employment due to the injury suffered by him. In these circumstances, we can safely infer that inspite of injury suffered in the accident, the claimant was allowed to continue in the job. Therefore, in the absence of any evidence to support that the disability suffered by the claimant affected his earning capacity, the Tribunal rightly fixed compensation on percentage basis. The Tribunal granted Rs.3,000/- per percentage of disability and the



CMA.No.435 of 2023

accident had occurred on 12.10.2013. Having regard to the year of accident,

this Court feels a sum of Rs.3,000/- fixed by the Tribunal per percentage of disability is fair and reasonable. Therefore, the amount of Rs.1,20,000/- awarded under the head disability is confirmed.

9. It is seen from the medical records produced by the claimant that he lost his vision in the right eye. Therefore, this Court feels Rs.40,000/- awarded by the Tribunal under the head loss of amenities shall be increased to Rs.1,50,000/- and Rs.40,000/- awarded under the head of pain and suffering is confirmed. The Tribunal fixed Rs.60,000/- under the head loss of income for five months. The same also appear to be reasonable. The amounts awarded by the Tribunal for extra nourishment and transportation, damages to clothes, attender charges etc., are fair and reasonable. Accordingly, the compensation awarded by the Tribunal is increased to Rs.3,89,150/-.



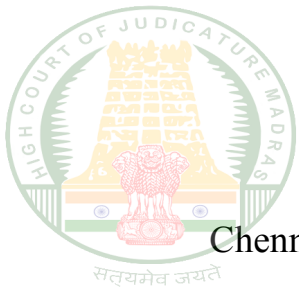
CMA.No.435 of 2023

10. In view of the discussions made earlier, the award passed

by the Tribunal is modified as follows:

Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court
1.	Disability	Rs.1,20,000/-	Rs.1,20,000/-
2.	Pain and suffering	Rs.40,000/-	Rs.40,000/-
3.	Extra nourishment and transportation	Rs.15,000/-	Rs.15,000/-
4.	Loss of amenities	Rs.40,000/-	Rs.1,50,000/-
5.	Damage to clothes	Rs.1,000/-	Rs.1,000/-
6.	Attender charges	Rs.3,150/-	Rs.3,150/-
7.	Loss of income 5 months	Rs.60,000/-	Rs.60,000/-
	Total	Rs.2,79,150/-	Rs.3,89,150/-

11. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to Rs.3,89,150/- from Rs.2,79,150/-. The 2nd respondent/Insurance Company is directed to deposit the enhanced award amount together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, after deducting the amount already deposited, if any, to the credit of MCOP. No.1541 of 2014, on the file of the Motor Accident Claims Tribunal, III Small Causes Court,



CMA.No.435 of 2023

Chennai, within a period of six weeks from the date of receipt of copy of this judgment. On such deposit, the appellant/claimant is permitted to withdraw the said amount by filing appropriate application before the Tribunal.

12. With the above direction, the Civil Miscellaneous Appeal is partly allowed. No costs.

09.04.2025

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
ub

To
1.The Motor Accident Claims Tribunal,
(III Small Causes Court), Chennai.

2.The Section Officer
VR Section, High Court, Madras.



WEB COPY



CMA.No.435 of 2023

S.SOUNTHAR, J.

ub

CMA.No.435 of 2023

09.04.2025