



C.M.A.No.1942 of 2021

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

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**DATED : 28.02.2025**

**CORAM**

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

**C.M.A.No.1942 of 2021**

Padmanapan

... Appellant

VS.

1.Yuvaraj

2.Thilagavathi

3.The United India Insurance Co., Ltd.,  
104-A, Ranga Building, Peramanur Main Road,  
Near Four Roads, Salem – 636 007.

... Respondents

**PRAYER:** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to allow the above civil miscellaneous appeal and enhance the award in the judgment and decree dated 07.03.2020 made in M.A.C.T.O.P.No.1638 of 2018, on the file of the Motor Vehicle Accident Claims Tribunal / Special Subordinate Judge No-I, Salem.

For Appellant : Mr.C.Paraneedharan

For R3 : J.Chandran



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## **J U D G M E N T**

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Aggrieved by the quantum of compensation fixed by the Motor Vehicle Accident Claims Tribunal / Special Subordinate Judge No-I, Salem, the injured/claimant has come by way of this appeal.

2. It is not in dispute that the appellant/claimant suffered grievous injuries in a road accident that had taken place on 10.07.2018. According to the claimant, the victim suffered fracture in the right femur, left hip and injuries all over the body. Hence, a claim petition was laid seeking compensation of Rs.15,00,000/-.

3. Before the Tribunal, the appellant/claimant was examined as PW.1. On the side of the appellant-claimant, 15 documents were marked as Exs.P1 to P15. No one was examined on the side of the 3<sup>rd</sup> respondent and no documents were marked. The Disability Certificate issued by the Medical Board to the claimant was marked as Ex.C1. and a copy of x-ray was marked as Ex.C2.



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4. The Tribunal on appreciation of evidence available on record quantified the compensation payable to the claimant at Rs.7,95,211/-. Not satisfied with the quantum of compensation fixed by the Tribunal, the injured/claimant has come by way of this appeal.

5. Both the learned counsel appearing for the appellant as well as learned counsel appearing for the 3<sup>rd</sup> respondent-Insurance Company have not advanced any arguments on the questions of negligence and liability. Therefore, facts necessary to decide those questions are not discussed in this judgment. The issue in this appeal is confined only to the quantum of compensation.

6. The learned counsel appearing for the appellant would submit that as per the Disability Certificate issued by the Medical Board marked as Ex.C1, the claimant suffered 45% disability and having regard to the nature of disability, the Tribunal should have adopted multiplier method while calculating the compensation. The learned counsel further submits that the amount awarded by the Tribunal under the head pain and sufferings, loss of amenities etc., need to be enhanced.



7. The learned counsel appearing for the 3<sup>rd</sup> respondent/Insurance

Company would submit that the claimant has not produced any proof to show his income and avocation. In the absence of any evidence to show that the disability suffered by the claimant would affect his avocation, the Tribunal is justified in calculating compensation on per percentage basis. The learned counsel further submits that the amount awarded by the Tribunal under various other heads are reasonable and therefore, the award needs to be confirmed.

8. A perusal of Exs.P5 and P6-Discharge Summaries and Disability Certificate-Ex.C1 would indicate that claimant suffered fracture in his right femur and right hip. It is also seen that internal fixation of plates and nailing have been done, apart from other procedures. Initially, the claimant was admitted in hospital on 10.07.2018 and and he was discharged on 06.08.2018. Since he could not recover, he was again admitted to hospital on 20.02.2019 and discharged on 27.02.2019 as seen from the Discharge Summary. Therefore, it is clear he was immobilised for nearly 8 months.



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9. A perusal of the Disability Certificate would indicate that even after second surgery, the claimant cannot squat or sit cross legged. It is also stated that he had got pain in moving the hips and difficulty in walking downstairs and climbing stairs etc. It is also stated that there is a limp while walking due to limb length discrepancy. Taking into consideration all these factors, the Medical Board assessed the disability at 45%. Though the claimant stated in his claim petition that he worked as Supervisor in M/s.Jeyam Pulses Mill, he has not produced any documents to show that he was employed as a Supervisor. Further, there is no evidence to prove the avocation of the claimant and the disability suffered by him really interfered with his avocation.

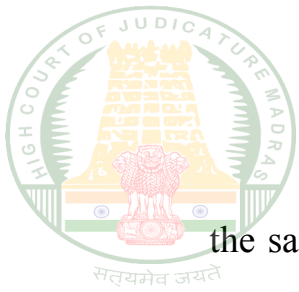
10. In such circumstances, it is not open to the claimant to seek compensation by multiplier method. The accident had occurred in the year 2018, therefore, the amount of Rs.3,000/- awarded by the Tribunal per percentage of disability is very much on lower side and the same is enhanced to Rs.7,000/- per percentage of disability. In that case, the claimant is entitled to Rs.3,15,000/- under the head permanent disability (i.e., Rs.7,000 x 45).



11. It is seen from Exs.P5 and P6-Discharge Summaries, the claimant

was immobilised for nearly 8 months and he was discharged from hospital after second surgery only in February, 2019, it may take another two months for him to return to the regular condition after physiotherapy etc. Therefore, this Court feels it would be appropriate to give loss of income for 10 months at the rate of Rs.16,500/- per month taking into consideration the year of accident and cost of living. Therefore, he is entitled to Rs.1,65,000/- under the head loss of income during treatment period.

12. Taking into consideration, the long period of hospitalisation, the Tribunal is justified in giving a sum of Rs.50,000/- towards pain and sufferings. In the disability certificate issued to the claimant it was clearly observed that he had got difficulty in sitting cross legged, walking, climbing stairs etc. It is also noted that he has got pain in both the hips. Therefore, he cannot lead his normal life after the accident. Taking into consideration all these factors, the amount of Rs.50,000/- awarded by the Tribunal under the head loss of amenities is increased to Rs.1,00,000/-. The amount awarded by the Tribunal under various other heads like medical expenses, transportation charges, extra nourishment and attender charges are reasonable and hence,



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the same are confirmed. The amount of Rs.1,000/- awarded under the head

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loss to the clothes is set aside. Therefore, the total compensation payable to

the claimant is Rs.11,29,211/-. Accordingly, the award passed by the

Tribunal is modified as follows:-

| Sl. No.      | Description             | Compensation awarded by the Tribunal | Compensation awarded by this Court | Remarks                          |
|--------------|-------------------------|--------------------------------------|------------------------------------|----------------------------------|
| 1.           | Pain and Sufferings     | Rs.50,000/-                          | Rs.50,000/-                        | <b>Confirmed</b>                 |
| 2.           | Loss of Income          | Rs.60,000/-                          | Rs.1,65,000/-                      | <b>Enhanced</b>                  |
| 3.           | Medical Expenses        | Rs.3,94,211/-                        | Rs.3,94,211/-                      | <b>Confirmed</b>                 |
| 4.           | Transportation Expenses | Rs.35,000/-                          | Rs.35,000/-                        | <b>Confirmed</b>                 |
| 5.           | Extra Nourishment       | Rs.30,000/-                          | Rs.30,000/-                        | <b>Confirmed</b>                 |
| 6.           | Attender Charges        | Rs.40,000/-                          | Rs.40,000/-                        | <b>Confirmed</b>                 |
| 7.           | Damages to Clothes      | Rs.1,000/-                           | -                                  | <b>Set Aside</b>                 |
| 8.           | Loss of amenities       | Rs.50,000/-                          | Rs.1,00,000/-                      | <b>Enhanced</b>                  |
| 9.           | Permanent Disability    | Rs.1,35,000/-                        | Rs.3,15,000/-                      | <b>Enhanced</b>                  |
| <b>Total</b> |                         | <b>Rs.7,95,211/-</b>                 | <b>Rs.11,29,211/-</b>              | <b>Enhanced by Rs.3,34,000/-</b> |

13. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to Rs.11,29,211/- from Rs.7,95,211/-.

The 3<sup>rd</sup> respondent/Insurance Company is directed to deposit the enhanced award amount of Rs.11,29,211/- together with interest at the rate of 7.5%



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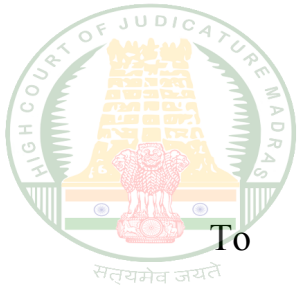
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per annum from the date of claim petition to the date of realisation, after deducting the amount already deposited, if any, to the credit of M.C.O.P.No.1638 of 2018 on the file of the Motor Vehicle Accident Claims Tribunal/Special Subordinate Judge No-I, Salem, within a period of six weeks from the date of receipt of copy of this judgment. On such deposit, the appellant/claimant is entitled to withdraw the award amount by making formal application. The appellant/claimant is directed to pay the applicable additional court fee.

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

**28.02.2025**

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



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To

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- 1.The Motor Vehicle Accident Claims Tribunal /  
Special Subordinate Judge No-I, Salem.
- 2.The United India Insurance Co., Ltd.,  
104-A, Ranga Building, Peramanur Main Road,  
Near Four Roads, Salem – 636 007.
- 3.The Section Officer,  
VR Section,  
High Court, Madras.



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**S.SOUNTHAR, J.**

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