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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-08-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 826 of 2025

1. P.Sankar
S/o.Palani, Boyar Street,
Thummankuruchi, Namakkal Dist.

Appellant(s)

Vs

1. The Superintendent Of Police
Superintendent of Police Office,
Namakkal.

2.Selvaraju (givenup)
S/o.Palanisamy, No.12, 81 Nadar
Street, Thummankuruchi, Namakkal.

3.M/s. National Insurance Company
Ltd., (givenup)
Divisional Office, Paramathi Road,
Namakkal Dist. Respondents 2 and 3
Givenup vide court order
dated.21/02/2025 made in CMP
No.3381 of 2025 in
CMA(SR)No.59979 of 2019 by SSJ.



Respondent(s)

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CMA No. 826 of 2025

PRAYER

To enhance the compensation awarded in the Judgment and Decree dt. 05.09.2018 made in M.C.O.P.No. 98 of 2014 on the file of MACT/Chief Judicial Magistrate at Namakkal.

CMA No. 826 of 2025

For Appellant(s): Mr.C.Paraneedharan For
Ms.M.B.Manimekalai

For Respondent(s): Mr.S.Senthilkumar For R3
Mr.C.Sathish For R1
R2 - No Such Person

ORDER

This Civil Miscellaneous Appeal has filed to enhance the compensation awarded in the Judgment and Decree dt. 05.09.2018 made in M.C.O.P.No. 98 of 2014 on the file of MACT/Chief Judicial Magistrate at Namakkal.

2. On 09.09.2013 at about 07.45 p.m., when the claimant riding his two wheeler bearing registration No. TN 28 Ak 6112 at Namakkal – Thiruchengode main road, the JEEP bearing registration No. TN 28 G 0298 driven by its driver in a rash and negligent manner dashed against the claimant's vehicle due to which the claimant grievous injuries. Thereafter, the claimant filed the petition



before the tribunal claiming compensation and respondents contested the case by filing counter. After considering the oral and documentary evidence the tribunal awarded compensation. Challenging the quantum of compensation, the appellant filed this appeal.

3. The learned counsel for the appellant submits that the medical board has assessed 62% disability. But the tribunal has taken only 50% disability without assigning any reason though the disability certificate/Ex.P3 certified 40% disability for bone injury and 22% for neurological disability. Further, he submits that the tribunal has awarded very less amount under the head of the loss of income. Further, the learned counsel for the claimant submits that while awarding compensation the tribunal has erroneously fixed 50% contributory negligence upon the claimant stating that the claimant has driven the two wheeler in a rash and negligent manner with drunken mode. In fact, there is no negligent on the part of the claimant and the accident was happened due to the rash and negligent driving of the first respondent driver. Therefore, the contributory negligence fixed by the tribunal upon the claimant without any material evidence as such is liable to be set aside and to prove the same he



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relied the Judgement passed by the Judicial Magistrate No.1, Namakkal, in STC 1476/14, wherein the learned magistrate after considering the oral and documentary evidence found that as per the evidence of Doctor/P.W.10, after the accident the claimant was admitted in the hospital with grievous injuries but there is no proof that the claimant was driven the vehicle with alcohol mode. Therefore, there is no proof that the driven was driven the vehicle with alcohol mode . Accordingly, the learned magistrate acquitted him from all charges as it was not proved by the prosecution that he was driven the vehicle with the consumption of alcohol. Hence, 50% contributory negligence fixed upon the claimant appellant herein is unwarranted and liable to be set aside. Hence, he prays to enhance the compensation.

4. Further he submits that the claimant was suffered with grievous head injuries and also P.W.4/Doctor, who certified that due to the accident the claimant sustained grievous injuries on the back side of his head due to that he suffered with disability and he suffered injury in his spinal chord due to which he is not able to do his work. Therefore, the injury sustained by the appellant is head injury which is grievous in nature. Even after the treatment he was not



recovered. Hence, he prays to adopt the multiplier method and to enhance the compensation.

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5. The learned counsel for the respondents Submit that the tribunal has rightly adopted 50% disability and rightly fixed notional income which needs no interference.

6. Considering the submissions on either sides and as per the disability certificate/Ex.B3 Doctor certified that he was sustained 40% partial permanent disability. In respect of nerves disorder Neurologist also examined as P.W.1, who certified as 22% partial permanent disability. Considering the gravity of the head injury, this Court is inclined to adopt multiplier method. Though he sustained 22% head injury and 40% bone injury. This Court is inclined to adopt multiplier method and take 35% as disability. Further, on seeing the age of the claimant and also the cost of living at the time of the accident. This Court is inclined to fix Rs.12,000/- as notional income of the claimant. Accordingly, the claimant is entitled to Rs.72,000/- under the head of loss of income for six months. Accordingly, the claimant is entitled to Rs. 12,70,080/- $12000+4800 \times 12 \times 18 \times 40 / 100$ under the head of disability. Further, the claimant

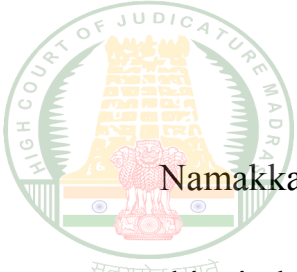


has sustained grievous injuries and taken in-patient treatment for 10 days.

Hence, this Court to fix Rs.75,000/- for pain and sufferings and Rs. 20,000/- for extra nourishment and Rs.15,000/- for transportation expenses and Rs.14,000/- for transportation expenses and Rs.20,000/- for loss of amenities.

S.No.	Head	Compensation awarded by the Tribunal	Compensation awarded by this Court
1.	Pain and sufferings	Rs.50,000/-	Rs.75,000/-
2.	Loss of Income	Rs.8,000/-	Rs.72,000/-
3.	Medical Expenses	Rs.97,900/*	Rs.97,900/-
4.	Transportation expenses	Rs.17,500/-	Rs.20,000/-
5.	Extra Nourishment	Nil	Rs.15,000/-
6.	Attender charges	Nil	Rs.14,000/-
7.	Damages to cloths and article	Nil	Nil
8.	Lost of amenities	Nil	Rs.20,000/-
9.	For permanent disability	Rs.1,56,000/-	Rs12,70,080/-
10	Total	Rs. 3,29,400/-	Rs.15,84,980/-

7. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to **Rs. 15,84,980/-**. The 3rd **respondent** is directed to deposit the said amount - together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, to the credit of M.C.O.P.No. 98 of 2014 on the file of MACT/Chief Judicial Magistrate at



Namakkal, within a period eight weeks from the date of receipt of a copy of this judgement. On such deposit, the **appellant/claimant** is permitted to

withdraw the award amount by making formal application before the Tribunal.

The claimant shall pay balance Court fee, if any.

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

01-08-2025

pbl

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The MACT/Chief Judicial Magistrate at Namakkal.

2. The Section officer, V.R Section, High Court, Madras.



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T.V.THAMILSELVI J.

CMA No. 826 of 2025

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