



WEB COPY

CMA No. 1785 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-08-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1785 of 2022

S.Lingeswaran

Appellant

Vs

1. Sesha Narayanan

2.ICICI Lombard General Insurance Co
Ltd.,
Chotabhai Centre, 2nd and 3rd Floors,
140, Nungambakkam High Road,
Chennai-34

Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicles Act, praying to set aside the Judgment and Decree dated 08-08-2019 made in MACT.OP.No. 7629 of 2014, on the file of the VI Court of Small Causes (Motor Accidents Claims Tribunal) Chennai.

For Appellant: Mr.N.M.Muthurajan

For Respondents: Mr.P.Magesh For R2
R1 - Not Claimed



JUDGMENT

WEB COPY

The petitioner not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.7629 of 2014, dated 08.08.2019 has preferred this appeal seeking for enhancement of compensation.

2.The case of the petitioner is that on 09.09.2013 at about 15.00 hours, when the petitioner riding his two wheeler bearing Regn. No. TN-21 AH-7203 along GWT Road, in West to East direction, proceeding along Dhammal village tank bund and were taking right turn to go to their village, at that time, the car bearing Regn. No. KA-01-MD-8570, which was driven by its driver in a rash and negligent manner came along GWT road, east to west direction, dashed on the two wheeler and went out of control and dashed against a standing person and caused accident. Due to which, the petitioner sustained injuries, for which he underwent treatment in the hospital. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation of Rs.30,00,000/-.



WEB COPY

3. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the rider of the 1st respondent. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.6,06,500/- after deducting 40% of contributory negligence under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Disability	5,18,400
2.	Pain and sufferings	75,000
3.	Extra nourishment	15,000
4.	Transport to hospital	10,000
5.	Damages to cloths	1,000
6.	Attender charges	6,500
7.	Medical expenses	3,14,808
8.	Future Medical expenses	45,000
9.	Loss of amenities	25,000
	Total	10,10,708
	Less : 40% contributory negligence	4,04,283.2
	Net compensation	6,06,500



4. The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

WEB COPY

5. The claimant not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal before this Court seeking for enhancement of compensation.

6. The learned counsel for appellant would submit that a car, which was driven in a rash and negligence manner came along GWT Road, east to west direction from the opposite direction and hit against a two wheeler, wherein the appellant was a rider and also hit on a standing person on the road side and he died in the said accident, which shows that the due to the negligent act of a car driver, the accident happened and there is no negligence on the part of appellant, but the tribunal erroneously fixed 40% liability upon him. Hence, he prayed to set aside the 40% contributory negligence fixed upon the petitioner.

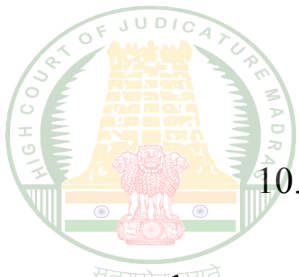
7. The learned counsel for 2nd respondent would submit that during the trial, the appellant/injured admits that he has not seen the car while taking a turn at the time of accident. So, the tribunal has rightly fixed 40% contributory negligence against him, which needs no interference.



WEB COPY

8. Heard and considered rival submissions made by both learned counsel for appellant as well as 2nd respondent and perused materials available on record.

9. Considering both side submissions, the fact reveals that admittedly, at the time of accident, the appellant, who was riding a two wheeler and the car, which came from the opposite direction dashed against him, but, at the time of accident, he attempted to turn on the right side, so, the accident happened. But, however, the car was coming from the right direction and due to the sudden turn made by him on the right side, the car dashed against two wheeler. On seeing nature of accident, the fact reveals that after hitting the two wheeler, the car hit against a standing person, who was on the right side, which shows that the driver of car lost his control at the time of accident. Hence, there is a negligence on the part of car driver. Hence, the fixing of contributory negligence upon the appellant is liable to be reduced to 20%.



WEB COPY

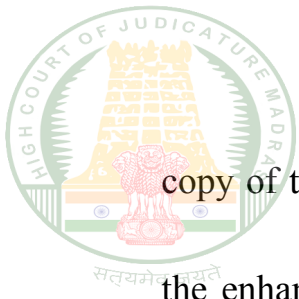
10. Furthermore, learned counsel for appellant would submit that though the appellant is an agriculturist at the time of accident and the accident happened in the year 2013, the tribunal had fixed the notional income only as Rs.9000/-. Therefore, considering the fact that the accident happened in the year 2013 and considering the cost of living at that time, this Court is inclined to enhance the notional income from Rs.9,000/- per month to Rs.12,000/- per month. Considering the fact that the appellant sustained huge damages of his cloths at the time of accident, the sum awarded for damages to cloths is to be increased from Rs.1,000/- to Rs.2,000/- The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.

11. In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:



S.No	Compensation awarded under the head	Amount awarded by the tribunal (in Rs.)	Amount (in Rs.)	Amount confirmed or granted or enhanced
1.	Disability (Rs.12,000 x 12 x 16 x 30%= = Rs.6,91,200/-	5,18,400	6,91,200	enhanced
2.	Pain and sufferings	75,000	75,000	confirmed
3.	Extra nourishment	15,000	15,000	confirmed
4.	Transport to hospital	10,000	10,000	confirmed
5.	Damages to cloths	1,000	2,000	enhanced
6.	Attender charges	6,500	6,500	confirmed
7.	Medical expenses	3,14,808	3,14,808	confirmed
8.	Future medical expenses	45,000	45,000	confirmed
9.	Loss of amenities	25,000	25,000	confirmed
	Total	10,10,708	11,84,508	
	Less : 20% of contributory negligence	4,04,283.2	2,36,901.6	
	Compensation awarded rounded off to	6,06,424 6,06,500	9,47,607 9,47,610	

12.The compensation awarded by the tribunal at Rs.6,06,500/- is enhanced to Rs.9,47,610/-. The second respondent insurance company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of eight weeks from the date of receipt of



copy of this judgment. On such deposit, the appellant is permitted to withdraw the enhanced award amount now determined by this court along with interest and costs, less the amount if any, already withdrawn. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

13. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

18-08-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

rpp

To

1. Motor Accident Claims Tribunal, VI Court of Small Causes, Chennai.
2. Section Officer, VR Section, Madras High Court.



WEB COPY

CMA No. 1785 of 2022



T.V.THAMILSELVI J.

rpp

CMA No. 1785 of 2022

18-08-2025