



C.M.A.No.820 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 03.04.2025

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

C.M.A. No.820 of 2022

Zeeshan Ali

... Appellant

Vs.

1.Mr. N. Shanmugam

2.Bajaj Alliance General Insurance Company Limited,
No.25/26, Prince Tower,
College Road,
Chennai – 600 006.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 11.06.2019 made in M.C.O.P.No.4481 of 2012 on the file of the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai.

For Appellant : Mr. U.M. Ravichandran for
M/s.F. Terry Chella Raja.

For Respondents : R1 – unnecessary party
(vide Batta in SR stage)
Mr. T.K. Premkumar for R2.



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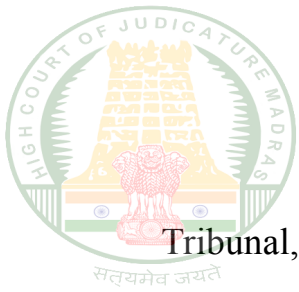
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J U D G M E N T

(Delivered by Dr. A.D. Maria Clete, J)

This Civil Miscellaneous Appeal is directed against the award passed by the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai in M.C.O.P. No.4481 of 2012, dated 11.06.2019, in and by which the Tribunal awarded a sum of Rs. 4,16,000/- as compensation to the appellant/claimant for the injuries sustained in a road traffic accident on 07.07.2012.

2. On 07.07.2012, the appellant, Zeeshan Ali, was riding his motorcycle bearing Registration No. TN-09-AZ-1399 along Anna Salai, Chennai, when a car bearing Registration No. TN-22-BF-6043, owned by the first respondent and insured with the second respondent, came from behind in the same direction and, being driven in a rash and negligent manner, hit the appellant's motorcycle. Due to the impact, the appellant was thrown off his vehicle and sustained multiple grievous injuries, including fractures in both arms and internal injuries, requiring surgical intervention and hospitalisation. He was 26 years old at the time of the accident and claimed to be earning Rs.25,000 per month as a Lead Associate at The Rain Tree Hotel. He filed a claim petition before the Motor Accident Claims



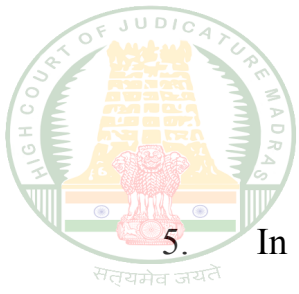
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Tribunal, Chennai, seeking compensation of Rs. 30,00,000/- for the injuries and

associated losses.

3. In his counter, the first respondent (the owner of the car bearing Reg. No. TN-22-BF-6043) denied the appellant's version of events and asserted that the accident occurred due to the appellant's own negligence. He stated that the appellant was riding his motorcycle in an unsteady manner, and while wobbling, suddenly came to a halt and collided with the front portion of his car. He contended that he was driving cautiously and that there was no rash or negligent driving on his part. Hence, he disclaimed liability for the accident and the resulting compensation claim.

4. In its counter, the second respondent denied the manner in which the accident was alleged to have occurred and disputed the age, occupation, income, and nature of injuries claimed by the appellant. It specifically contended that the appellant was guilty of contributory negligence, which either disentitled him from claiming compensation or warranted a substantial reduction. The insurer also claimed the compensation sought was excessive, speculative, and unsubstantiated.

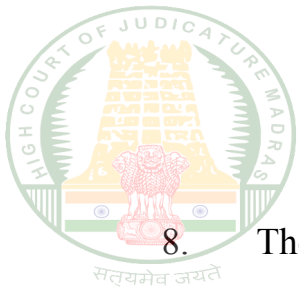


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5. In support of his claim, the appellant examined himself as PW1 and the doctor as PW2, and produced Exhibits P1 to P20. On the side of the respondents, no witnesses were examined and no documents were filed.

6. The Tribunal held that the accident occurred due to the rash and negligent driving of the first respondent's car and that the appellant/claimant was entitled to compensation. However, the Tribunal did not accept the disability assessment of 95% given by the private doctor (PW2), since the appellant did not appear before a medical board nor provided adequate justification for the same. Instead, the Tribunal fixed the disability at 20% and awarded a sum of Rs. 1,00,000/- under that head using the percentage method. Taking into account other heads such as pain and suffering, medical expenses, transportation, nourishment, and attendant charges, the Tribunal awarded a total compensation of Rs. 4,16,000/- with interest at 7.5% per annum from the date of petition till the date of deposit. The respondents (owner and insurer) were held jointly and severally liable to pay the compensation.

7. Heard the parties and perused the materials available on record.



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8. The learned counsel for the appellant submitted that the Tribunal erred in assessing permanent disability at only 20%, despite the medical evidence indicating 95% disability, and further failed to apply the multiplier method for computing loss of earning capacity. It was also contended that the Tribunal omitted compensation under several heads, including loss of income, loss of amenities, and future medical expenses, and therefore, sought enhancement of the award by allowing the appeal. In response, the learned counsel for the second respondent argued that the accident occurred solely due to the negligence of the appellant himself, and hence, the insurer was not liable to pay any compensation. It was further contended that the second respondent denied the injuries, disability, and hospitalisation claimed by the appellant, alleging lack of sufficient proof, and therefore prayed for dismissal of the appeal and setting aside of the award.

9. The Tribunal, after considering the oral and documentary evidence, held that the accident occurred due to the rash and negligent driving of the first respondent's car, which came from behind and hit the appellant's motorcycle. This finding was supported by the FIR, wound certificate, and the consistent testimony of the claimant. The Tribunal has correctly applied the principle of preponderance



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of probabilities, which is the applicable standard of proof in motor accident claims, rather than insisting on the criminal standard of proof beyond reasonable doubt. In the absence of any rebuttal evidence from the respondents, there is no substantial reason to interfere with the Tribunal's finding on negligence.

10. A perusal of the award shows that the Tribunal determined a total compensation of Rs. 4,16,000/- in favour of the appellant under various heads, including loss of earning capacity, pain and suffering, medical expenses, transport, nourishment, and attendant charges. The Tribunal noted that PW2, the doctor who examined the appellant, had assessed his permanent disability at 95%. However, during cross-examination, PW2 admitted that the assessment was carried out subsequently and that the appellant had not appeared before any Medical Board for evaluation.

11. Relying on this admission and observing that no explanation was offered for not undergoing a Medical Board assessment, the Tribunal declined to accept the 95% rating. Instead, it fixed the disability at 20% on its own estimation and



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awarded Rs. 1,00,000/- towards loss of earning capacity by applying the percentage method, rather than the multiplier method.

12. When the matter came up on appeal, this Court, by order dated 26.06.2023, directed the appellant to appear before the Medical Board at Government Royapettah Hospital, Chennai for an independent assessment. In compliance, the Medical Board examined the appellant and, by report dated 30.08.2024, assessed his permanent disability at 50%. It is well settled in the Judgment of the Hon'ble Supreme Court of India in **Prakash Chand Sharma Vs. Rambabu Saini & Anr.** reported in **2025 LiveLaw (SC) 186**, wherein, it has been held that the opinion of the Medical Board, being an opinion of the experts is to be treated as such.

13. Hence, in view of the Judgment cited supra and in view of the Medical Board's assessment and considering the nature of injuries sustained, this Court is inclined to accept the disability at 50%. Though the appellant claimed to be working as a Lead Associate at The Rain Tree Hotels earning Rs.25,000/- per month, no documentary evidence was produced to support this claim. Hence, this Court reasonably fixes the notional income at Rs.7,500/- per month.



14. In line with the principles laid down in **National Insurance Co. Ltd. v.**

Pranay Sethi [(2017) 16 SCC 680], 40% is added towards future prospects. As the appellant was 26 years of age at the time of the accident, the applicable multiplier is '17', as per *Sarla Verma v. DTC [(2009) 6 SCC 121]*.

15. Accordingly, the monthly income with future prospects is Rs.7,500 + 40% = Rs.10,500. The loss of earning capacity is therefore calculated as: Rs.10,500 × 12 × 17 × 50% = Rs.10,71,000/-. The compensation awarded under the remaining heads is found to be fair, reasonable, and does not call for any interference.

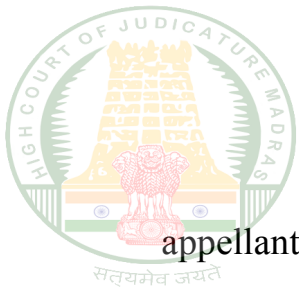
16. Consequently, the total compensation amount is enhanced from Rs.4,16,000/- to Rs.13,86,500/- and the revised compensation is as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1	Loss of earning capacity	Rs.1,00,000	Rs.10,71,000	Enhanced



S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
2	Pain and sufferings	Rs.1,00,000	Rs.1,00,000	Confirmed
3	Attender Charges	Rs.15,000	Rs.15,000	Confirmed
4	Transport Expenses	Rs.10,000	Rs.10,000	Confirmed
5	Extra nourishment	Rs.20,000	Rs.20,000	Confirmed
6	Medical Bills	Rs.1,70,500	Rs.1,70,500	Confirmed
	Total	Rs.4,15,500 rounded off to Rs.4,16,000	Rs.13,86,500/-	Enhanced

17. In the result, the Civil Miscellaneous Appeal filed by the appellant is disposed of and the second respondent is directed to deposit the award amount now determined by this Court, together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit (less the default period, if any) along with interest and costs, if not already deposited, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit, the



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appellant is permitted to withdraw the award amount along with proportionate

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interest and costs, less the amount if any, already withdrawn. No costs.

(R.S.K., J) (A.D.M.C., J)

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Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation: Yes / No

To

1.The Motor Accident Claims Tribunal,
II Court of Small Causes,
Chennai.

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

R.SURESH KUMAR, J
and
DR. A.D. MARIA CLETE, J

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