



CMA.No.377 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 21.02.2025

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA.No.377 of 2025

Perumal

... Appellant

Vs.

1.Manoj

2.Mala

3.The United India Insurance Company Limited,
No.77, Oriental Complex, AA Street,
Salem.

4.Nagarajan

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to allow the above Civil Miscellaneous Appeal and enhance the award amount in the order dated 09.01.2023 made in MCOP.No.224 of 2021, on the file of the Motor Accidents Claims Tribunal, Special Subordinate Judge, No.1, Salem.

For Appellant : Mr.T.S.Arthanareeswaran

For Respondents : Notice to R1, R2 and R4
is dispensed with
M/s.J.Chandran for R3



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J U D G M E N T

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The appellant/injured claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal Special Subordinate Judge, No.I, Salem, in MCOP.No.224 of 2021, dated 09.01.2023, has come by way of this Civil Miscellaneous Appeal.

2. It is not in dispute that the claimant suffered injury in a road accident that had taken place on 01.12.2020. It is the case of the claimant that he travelled as pillion rider in two wheeler driven by his friend and when they were proceeding from South to North, a light goods vehicle bearing registration No.TN-30AQ-5396 belonging to the second respondent insured with the 3rd respondent was driven by the first respondent in a rash and negligent manner and hit the two wheeler. As a result of which, the claimant was thrown out and sustained serious injuries.

3. The claimant filed a Claim petition seeking compensation of Rs.20,00,000/- and as against the said claim, the Tribunal granted an award of Rs.5,16,332/-. Not satisfied with the quantum of compensation, the claimant has come before this Court.



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4. The claim petition was not resisted before the Tribunal, by filing counter as all the respondents remained ex-parte.

5. Based on the evidence let in by the claimant, the Tribunal came to the conclusion that the accident had occurred due to the negligence of the driver of the light goods vehicle namely the first respondent and the respondents 1 to 3 are jointly and severally liable to pay the compensation.

6. Heard the arguments of the learned counsel appearing for the appellant and the learned counsel appearing for the 3rd respondent insurer of the vehicle belonging to the second respondent. Since the respondents 1 to 4 remained ex-parte before the Tribunal, notice to the respondents 1,2 and 4 is dispensed with.

7. As both the counsel appearing for the appellant and the 3rd respondent have not advanced any arguments on the questions of negligence and liability, necessary facts leading to the fixation of negligence and liability by the Tribunal are not discussed in this order.



8. The learned counsel appearing for the appellant/claimant

would submit that the claimant suffered 10% permanent disability and the Tribunal awarded only Rs.5,000/- for 1% percentage of disability and the same is very much on the lower side. He further submitted that the claimant suffered head injury and the amount of Rs.10,000/- awarded by the Tribunal under the head loss of income during the treatment period is very much on the lower side.

9. The learned counsel appearing for the 3rd respondent would submit that the claimant has not produced any evidence to prove that the injury interfered with his avocation and hence the amount of Rs.5,000/- awarded by the Tribunal for each percentage of disability is reasonable. He further submitted that the claimant was in hospital only for nine days and therefore, the amount of Rs.10,000/- was awarded under the head loss of income during treatment period is reasonable.

10. The accident had occurred in the year 2020, taking into consideration the year of accident, this Court feels Rs.8,000/- per percentage of disability would be reasonable. Therefore, the claimant is entitled to



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Rs.80,000/- under the head permanent disability as his disability was

assessed at 10% by the competent medical board under Ex.C1.

11. It is recorded by the Tribunal, the claimant was in hospital for nine days from 01.12.2020 to 09.12.2020 and underwent craniotomy and Evacuation of EDH. Under Ex.P4, the details of the injury suffered by the claimant are mentioned which reads as follows:

“Fractures of squamous and mastoid parts of left temporal bone, subdural hematoma in right fronto temporal and left temporal convexities. Acute extradural bleed with pneumocephalus in left fronto parieto temporal convexity with mass effect and midline shift. Subdural bleed in inter hemispheric fissure and injuries (1) (2) (3) and (4) are grievous in nature.”

12. In view of the serious injury suffered by the claimant and the nature of the treatment, this Court feels, the claimant is entitled to loss of income for atleast three months. In the claim petition it was stated by the claimant that his monthly income was Rs.10,000/-. Therefore, the claimant is entitled to Rs.30,000/- instead of Rs.10,000/- under the head loss of income.



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

by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)
1.	Loss of pain and sufferings	20,000/-	20,000/-
2.	Loss of Income	10,000/-	30,000/-
3.	Medical Expenses	3,95,332/-	3,95,332/-
4.	Transportation	10,000/-	10,000/-
5.	Extra Nourishment	10,000/-	10,000/-
6.	Attender charges	10,000/-	10,000/-
7.	Damages to Clothes	1,000/-	-
8.	Loss of amenities	10,000/-	10,000/-
9.	Permanent disability	50,000/-	80,000/-
	Total	5,16,332/-	5,65,332/-

In view of the discussions made earlier, the claimant is entitled to a sum of Rs.5,65,332/- as against a sum of 5,16,332/- awarded by the Tribunal. The claimant is entitled to interest at the rate of 7.5% (excluding the delay period of 192 days as per order in CMP.No.1556 of 2025) on the enhanced award. The 3rd respondent is directed to deposit the enhanced amount with interest within a period of four weeks from the date of a copy of this judgment, to the credit of MCOP.No.224 of 2021, on the



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file of the Motor Accidents Claims Tribunal, Special Subordinate Judge,

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No.1, Salem. On such deposit, the appellant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount, if any, already withdrawn, by making formal application before the Tribunal.

14. Accordingly, this Civil Miscellaneous Appeal is partly allowed. No costs.

21.02.2025

Index : Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To

1.The Motor Accident Claims Tribunal,
Special Subordinate Judge, No.I, Salem.

2.The Section Officer

VR Section,

High Court, Madras.

S.SOUNTHAR, J.



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