



CMA.No.2361 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 21.03.2025

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA.No.2361 of 2021

Gopal

... Appellant

Vs.

1.Manikandan
2.Vijayakumar
3.The National Insurance Company Limited,
First Floor, Karthikeya Complex 403,
B-10, Mettur Main Road, Erode District – 638 301.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, praying to allow the above Civil Miscellaneous Appeal and enhance the award in the order dated 23.03.2021 made in MACTOP.No.136 of 2019, on the file of the Motor Vehicle Accident Claims Tribunal/Special Subordinate Judge No.I, Salem.

For Appellant :Ms.P.Neelavathi
for Mr.C.Paraneedharan

For Respondents :M/s.Sree vidhya for R3
No Appearance for R1 and R2



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J U D G M E N T

Not satisfied with the quantum of compensation awarded by the Tribunal, the claimant has come before this Court.

2. It is the case of the claimant that he suffered fracture in right Tibia in a road accident that had occurred on 29.06.2018. Both the learned counsel appearing for the appellant as well as learned counsel appearing for the 3rd respondent/Insurance Company have not advanced any arguments on the questions of negligence and liability aspects. Therefore, facts necessary for deciding those questions are not discussed in this judgment.

3. The learned counsel appearing for the appellant would submit that the injured claimant suffered fracture in Tibia and disability was assessed at 15% by the Medical Board and the Tribunal granted only Rs.5,000/- per percentage of disability and the same is very much on lower side.



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4. The learned counsel appearing for the 3rd respondent/Insurance Company would submit that the claimants have not produced any documentary evidence to prove the income and avocation. Hence, the Tribunal is justified in fixing the compensation of Rs.3,50,517/-. The learned counsel further submitted that the amount of Rs.75,000/- quantified by the Tribunal under the head disability is fair and reasonable.

5. It is seen from Ex.P4-Discharge summary, the claimant was in hospital from 07.07.2018 to 12.07.2018 for nearly six days. It is stated in the discharge summary that the claimants suffered comminuted fracture in right tibia and he was treated with bone grafting. The Medical Board examined the claimants and issued disability certificate as Ex.C1, wherein, the disability of the claimant was assessed at Rs.15% . The accident had occurred in the year 2018, taking into consideration, the date of accident and the nature of injury suffered by the claimant, this Court is inclined to fix Rs.7,000/- per percentage of disability. Therefore, the claimant is entitled to Rs.1,05,000/- under the head loss of disability.



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6. Taking into consideration the date of accident and cost of living, the amount of Rs.7,500/- fixed by the Tribunal as notional income for the injured is very much on the lower side and the same is enhanced to Rs.16,500/-. The Tribunal granted loss of income for four months, therefore, the amount awarded under the head loss of income is enhanced to Rs.66,000/-.

7. The amount awarded by the Tribunal under various other heads like pain and suffering, transport charges, extra nourishment, attender charges, loss of amenities are affirmed. The amount awarded under the head loss of medical expenses is based on evidence available on record. Hence, the same is affirmed.

8. In view of the discussions made earlier, the award passed by the Tribunal is modified as follows:



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Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court
1.	Pain and sufferings	Rs.20,000/-	Rs.20,000/-
2.	Loss of income	Rs.30,000/-	Rs.66,000/-
3.	Medical expenses	Rs.1,79,517/-	Rs.1,79,517/-
4.	Transport expenses	Rs.10,000/-	Rs.10,000/-
5.	Extra nourishment	Rs.10,000/-	Rs.10,000/-
6.	Attender charges	Rs.10,000/-	Rs.10,000/-
7.	Damage to clothes	Rs.1,000/-	Rs.1,000/-
8.	Loss of amenities	Rs.15,000/-	Rs.15,000/-
9.	Loss of permanent disability	Rs.75,000/-	Rs.1,05,000/-
	Total	Rs.3,50,517/-	Rs.4,16,517/-

9. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to Rs.4,16,517/-, The 3rd respondent/Insurance Company is directed to deposit the enhanced award amount together with interest at the rate of 7.5% 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 MACTOP.No.136 of 2019, 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 permitted to



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withdraw his respective award amount by filing appropriate application

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

21.03.2025

Index : Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To

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

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



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S.SOUNTHAR, J.

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