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CMA No. 1660 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-07-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1660 of 2025

1. Banumathi @ Banumathi Mohan
W/o Mohan, No.17, Palli Kuda Street,
Katchur, Seethanjeri Tiruvallur 602 026

Appellant(s)

Vs

1. YESU
N.No.11-B, Madha Koil Street,
Odhikadu Village and Post, Thiruvallur
602 021

2.The Oriental Insurance Co Ltd
No.115/216, Prakash Road,
T.P.Ce 2nd Floor,
Chennai 108

Respondent(s)

PRAYER: To allow this appeal and be pleased to enhance the amount awarded in MCOP No. 2226 of 2019 dated 11.11.2024 on the file of Motor Accident Claims Tribunal, (III Judge Court of Small Causes, Chennai) as prayed for with interest and cost.



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For Appellant(s): K. Varadha Kamaraj

For Respondent(s): Mr.J.Chandran For R2

JUDGMENT

The appellant has filed this appeal praying to enhance the compensation awarded in MCOP No. 2226 of 2019 dated 11.11.2024 on the file of Motor Accident Claims Tribunal, (III Judge Court of Small Causes), Chennai.

2. The brief facts of the case of the appellant/claimant are as follows:

On 01.04.2019 at about 15.00 hours when the petitioner was pillion rider in Motorcycle bearing the Reg.No.TN 20 CC 0421 on Mount Poondamalli road near Nanthambakkam Police station towards Guindy to Porur direction at that time the rider of the Motorcycle came at very rash and negligent manner and endangering public safety and dashed against the car bearing Reg.No.TN 01 AL 0759. As a result, the petitioner has felled down and sustained grievous injuries. The accident occurred due to negligence of driver of the Motorcycle bearing the Reg.No.TN.20 CC 0421. The first respondent is the owner of the vehicle and the second respondent as an insurer of the offending vehicle.



3. Upon considering the oral and documentary evidence, the Tribunal partly allowed the claim petition and awarded a sum of Rs.1,20,500/- as compensation, directing the 2nd respondent to pay the said amount to the appellant along with interest at the rate of 7.5% per annum from the date of petition till the date of realisation, at the first instance with the liberty to recover the same from the 1st respondent.

4. Aggrieved by the quantum of compensation awarded by the Tribunal, the appellant (claimant) has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. The learned counsel for the appellant submitted that the compensation awarded by the Tribunal is not commensurate with the injuries sustained by the claimant. He, therefore, prayed for enhancement of compensation.

6. On the other hand, the learned counsel appearing for the second respondent contended that the award passed by the Tribunal is based on well-



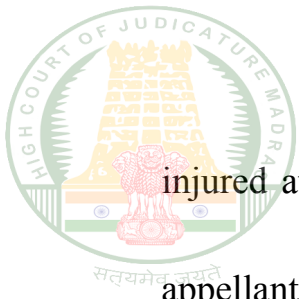
settled principles of law applicable at the time of the order, and therefore, it need not be interfered.

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7. The Medical Board assessed his partial permanent disability at 11%.

The Tribunal did not find any functional disability, and therefore, awarded compensation at the rate of Rs.5,000/- per percentage of disability. However, considering the claimant's age (38 years at the time of accident) and the nature of injuries sustained, it would be appropriate to enhance the compensation to Rs.8,000/- per percentage. Accordingly, a sum of Rs.88,000/- (Rs.8,000 x 11%) is awarded towards partial permanent disability.

8. The claimant is working as a Helper (Anganvadi), under Tamil Nadu govt. and earning Rs.8,000/- per month. To prove her monthly income, she filed appointment letter of Anganvadi, but salary slip was not produced. However, the appellant has not produced any document to prove his income. Considering the nature of employment and the absence of documentary proof, this Court is of the opinion that fixing the notional monthly income of the



injured at Rs.8,000/- would meet the ends of justice. Due to the accident, the appellant would have been unable to attend to his regular work for at least four

months. Therefore, a sum of Rs.32,000/- (Rs.8,000 x 4 months) is awarded towards loss of income during the period of treatment and recovery.

Additionally, the amount awarded by the Tribunal under the heads of pain and sufferings is enhanced to Rs.25,000/-. The compensation awarded under the other heads by the Tribunal is confirmed.

9. The following tabular column sets out the amounts awarded by the Tribunal and the enhanced amounts awarded by this Court under various heads:

Sl. No	Heads	Amount (in Rs.) awarded by the Tribunal	Amount (in Rs.) awarded by the High Court
1.	Disability	55,000	88,000
2.	Pain and suffering	20,000	25,000
3.	Transportation	4,000	4,000
4.	Extra nourishment	10,000	10,000
5.	Attender charges	4,500	4,500
6.	Damages to cloth	1,000	1,000
7.	Loss of Amenities	10,000	10,000
8.	Loss of earnings	16,000	32,000
	Total	1,20,500	1,74,500



Thus, the compensation awarded by the Tribunal is enhanced from Rs.1,20,500/- to Rs.1,74,500/-, which shall carry interest at the rate of 7.5% per annum.

10. In the result:

i. The Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs.

ii. The compensation awarded by the Tribunal is enhanced from Rs.1,20,500/- to Rs.1,74,500/-.

iii. The appellant/claimant is directed to pay the Court fee for the enhanced compensation amount, if any. The Registry is directed to draft the decree only after the receipt of the Court fee.

iv. The 2nd respondent, Oriental Insurance Co.Ltd., Chennai, is directed to deposit the enhanced compensation amount, i.e., Rs.1,74,500/- (after deducting the amount already deposited), together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of realization, to the credit of M.C.O.P. No. 2226 of 2019 on the file of the Motor Accidents



Claims Tribunal (III Judge, Court of Small Causes, Chennai), within a period of eight weeks from the date of receipt or uploading of a copy of this order, in the

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first instance. Thereafter, the Insurance Company is at liberty to recover the same from the owner of the vehicle / 1st respondent, under the same cause of action.

v. On such deposit being made, the appellant/claimant is at liberty to withdraw the same, after following due process of law.

vi. The appellant/claimant shall not be entitled to claim interest for the period of delay, if any, in filing this appeal.

02-07-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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Odhikadu Village and Post, Thiruvallur
602 021

2. The Oriental Insurance Co Ltd

No.115/216, Prakash Road, T.P.Ce 2nd
Floor, Chennai 108.

3. The Motor Accidents Claims

Tribunal (III Judge, Court of Small
Causes, Chennai.

4. The Section Officer,

VR Section, High Court of Madras.



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