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CMA No. 3110 of 2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-06-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 3110 of 2021

AND

CMP NO. 17607 OF 2021

United India Insurance Co.Ltd.,
24, Whites Road, Chennai - 600 014.

Appellant

Vs

1. Vijayakumar,

2.K. Sankar,

Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicles Act, praying to allow the above Civil Miscellaneous Appeal and set aside the Award and Decree dated 11.02.2021 passed in M.A.C.T.O.P.No.1370 of 2017 by the VI SCC Judge, Motor Accidents Claims Tribunal, Chennai.

For Appellant: Mr.R.Rathna Thara

For Respondent(s): Mr.Ma.P.Thangavel For
Ms.A.Sulochana For R1
R2 - No Appearance



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JUDGEMENT

Challenging the impugned award passed by the Motor Accident Claims Tribunal, VI Judge, Small Causes Court, Chennai in MCOP No.1370 of 2017, dated 11.02.2021, the appellant/2nd respondent insurance company preferred this Civil Miscellaneous Appeal.

2.The case of the 1st respondent/petitioner is that on 06.10.2016 at about 06.00 A.M.. when the petitioner was travelling as a pillion rider in a two wheeler bearing Regn. No. TN-18 AY-1316, the rider rode the bike in a rash and negligent manner, dashed against a pedestrian, as a result of which, the petitioner fell down from the bike and sustained grievous 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.

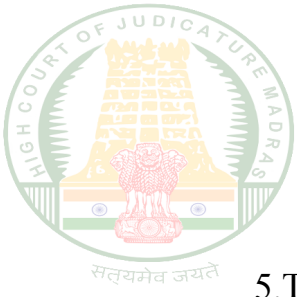


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3. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the rider of the 1st respondent. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.4,77,426/- under various heads as follows :-

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Functional disability	3,06,000
2.	Pain and sufferings	15,000
3.	Extra nourishment	10,000
4.	Transportation	10,000
5.	Damage to cloths	1,000
6.	Attender charges	5,500
7.	Medical expenses	1,19,926
8.	Loss of amenities	10,000
	Total	4,77,426

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

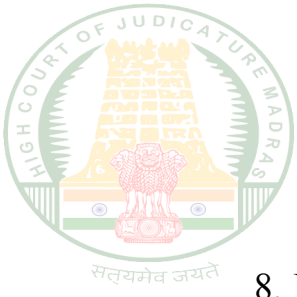


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5. The Insurance Company aggrieved by the quantum of compensation fixed by the Tribunal has filed the present appeal before this Court.

6. The learned counsel for appellant argues that though the medical board assessed the disability at 0%, without any medical proof, the tribunal itself fixed the disability at 15% as such is erroneous one and apart from that, the tribunal also applied multiplier method to award compensation for functional disability. Hence, prayed to set aside the findings of Tribunal.

7. The learned counsel for 1st respondent argues that as per the discharge summary, the injured was sustained with grievous head injury. Considering that, the tribunal has rightly fixed disability of 15% and also rightly applied the multiplier method, which needs no interference. Hence, he prayed to dismiss this Appeal.



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8. Heard and considered rival submissions made by both learned counsel for appellant as well as 1st respondent and perused the materials available on record.

9. Considering both side submissions and on perusal of records, the fact reveals that there is no disability certificate issued by the medical board. Considering the discharge summary and wound certificate, the Tribunal itself fixed disability at 15% as such is erroneous one as rightly pointed out by the learned counsel for appellant. But, on seeing the gravity of grievous head injury, this Court is inclined to fix disability at 15%. Since the accident was happened in the year 2016, a sum of Rs.6000/- is to be fixed for per percentage of disability. On considering the injuries as well as treatment period, this Court is inclined to modify the period for loss of income as four months. The accident was happened in the year 2016 and admittedly, he was working as Grade D employee in Berger in Pipe Supporters (I) Pvt. Ltd., but no income certificate was furnished. Therefore, on considering the cost of living, this Court is



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inclined to fix the notional income as Rs.15000/- per month. Considering the disability percentage and the nature of injuries sustained by the petitioner, this

Court is inclined to enhance the sum awarded towards pain and sufferings from Rs.15,000/- to Rs.50,000/-. During the period of treatment, the petitioner would have been in need of more nourishment, this Court is inclined to enhance the sum awarded towards extra nourishment from Rs.10,000/- to Rs.20,000/-.

Furthermore, the multiplier applied by the tribunal for the functional disability as such is erroneous one. The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court. By relying the authority laid down by this court in the case of in the case of ***HDFC ERO General Insurance Co. Ltd. vs. Mathivannan and another*** reported in ***2018 (1) TNMAC 366***, though the appeal was preferred by Insurance Company, this Court is empowered to enhance the sum awarded by the tribunal on the other heads,.

10. In view of above discussions, the compensation awarded by the tribunal is modified as follows :-



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S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Functional disability/loss of income (15% x Rs.6000 = Rs.90,000/-)/ (Rs.15,000/- x 4 = Rs.60,000/-)	1,50,000
2.	Pain and sufferings	50,000
3.	Extra nourishment	20,000
4.	Transportation	10,000
5.	Damage to cloths	1,000
6.	Attender charges	5,500
7.	Medical expenses	1,19,926
8.	Loss of amenities	10,000
	Total	3,66,426
	Rounded off	3,66,430

11. The compensation awarded by the tribunal at Rs.4,77,426/- is reduced to Rs.3,66,430/-. The appellant Insurance Company is directed to deposit the reduced 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.



Accordingly, this Civil Miscellaneous Appeal is disposed of. No costs.

Consequently, the connected Civil Miscellaneous Petition is closed.

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19-06-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Motor Accident Claims Tribunal, VI Judge, Court of Small Causes, Chennai.

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



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T.V.THAMILSELVI J.

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