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CMA No.2816 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2025

CORAM

THE HONOURABLE MRS. JUSTICE J.NISHA BANU
and
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.M.A.No.2816 of 2024

and

CMP No.22932 of 2024 & CMP.No.1404 of 2025

The Branch Manager,
Reliance General Insurance Company Ltd.,
AVS Tower, Next to Srinivasa Motors,
100 Feet Road, Sundararaja Nagar,
Mudaliarpet,
Pondicherry - 605 004.

... Appellant

VS

1. Nagamuthu,
S/o Krishnan,
aged 70 years,
No.12, South Street, Uruvaiyar,
Mangalam (Post),
Puducherry.

2. Anand Maharaj,
S/o Doraisamy,
No.14, Poongodhai Nagar,
Civil Aerodrome Post,
Coimbatore South, Coimbatore,
Tamil Nadu - 641 014

... Respondents



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Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicle Act, 1988 against the judgment and decree dated 11.03.2024 passed in MCOP.No.291 of 2022 on the file of the Motor Accident Claims Tribunal, Additional Sub Judge (FAC), Puducherry

For Appellant : Mrs.R.Sree Vidhya

For Respondents : Mrs.G.Sumitra
for R1
Service waited for R2

JUDGMENT

(The judgment of the Court was delivered by J.Nisha Banu,J.)

This Civil Miscellaneous Appeal has been filed by the Insurance Company, challenging the award dated 11.03.2024 passed in MCOP.No.291 of 2022 on the file of Motor Accident Claims Tribunal, Additional Sub-Judge (FAC), Puducherry.

2. For the sake of convenience, the parties will be referred to as per their array before the Motor Accident Claims Tribunal.

3. The case of the petitioner in the claim petition is that on 09.10.2021 at about 1.00 p.m., the petitioner was riding Hero Honda motorcycle bearing Reg.No.PY.01.R.1182 from Villupuram to his



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brother's native village Eraloor. The petitioner's brother's son, Soundarajan was also riding in another motorcycle behind his motorcycle. When the petitioner stopped the vehicle near the divider on Trichy to Chennai NH Road, Villupuram, at that time, a Mahindra Bolero truck bearing Reg.No.TN-37-DF-7584, which was proceeding from Trichy to Chennai NH Villupuram Ellies Sathiram Bypass Road, came in a rash and negligent manner and dashed against the stationed motorcycle of the petitioner. Due to the impact, the petitioner was thrown away from the vehicle and fell down. The wheel of the truck ran over the left leg of the petitioner and he sustained grievous injuries and fractures. Immediately, he was taken to Mundiampakkam Government Hospital, Villupuram and subsequently, referred to MIOT Hospital, Chennai on the same day and took treatment in the said Hospital. The petitioner underwent 'left below knee guillotine amputation' and also underwent several surgeries. The accident occurred only due to rash and negligent driving of the driver of the Mahindra Bolero truck bearing Reg.No.TN-37-DF-7584. Hence, the claim petition was filed by the petitioner claiming Rs.50,00,000/- as compensation.



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4. Heard the learned counsel the appellant Insurance Company, learned counsel for the respondent/claimant and perused the materials available on record.

5. Learned counsel for the Insurance Company would state that the Tribunal erred in holding that the Mahindra Bolero Truck was responsible for the accident while ignoring the rash riding of motor cycle by the petitioner. Learned counsel would further state that there was no evidence as to the earning capacity of the claimant being affected on a permanent basis and a sum of Rs.3,00,000/- granted under the head of pain and suffering is very excessive. Learned counsel would further state that the Tribunal erred in adopting the multiplier for loss of earning and erred in granting Rs.14,68,716/- for medical expenses, without proper consideration of bills. Therefore, the learned counsel would pray that the award passed by the Tribunal is liable to be set aside.

6. Per contra, the learned counsel appearing for the claimant would state the petitioner is an agriculturist. He was owning 10 acres of agricultural land and a coconut grove. He was earning a sum of



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Rs.15,00,000/- per year. He is the only bread winner of the family. Due to the injuries sustained by him, he is unable to do his day today affairs without anybody's support. However, the Tribunal had granted only Rs.10,000/- per month as notional income which is very low. Therefore, the learned counsel would pray to enhance the compensation amount.

7. The Tribunal, under the impugned award, directed the Insurance Company to pay the claimant, a compensation of Rs.23,92,000/-(Rupees Twenty Three Lakhs Nine Two Thousand only) as detailed hereunder :

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>
Loss of Pain and sufferings	3,00,000
For permanent disability	4,68,000
For Medical expenses	14,68,716
Loss of income	60,000
For Transport expenses	25,000
For attender charges	25,000
For extra nourishment	20,000
Loss of comfort and basic amenities	25,000
Total	Rs.23,91,716/- Rounded off into Rs.23,92,000/-



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8. As regards negligence, the petitioner examined himself as PW1 and stated that the accident had occurred only due to the rash and negligent driving of the driver of Mahindra Bolero truck. No contra evidence has been adduced to rebut the evidence of PW1. It is seen from Ex.P1-FIR that a case was registered against the driver of Mahindra Bolero truck and a charge sheet was also laid against Premkumar, driver of Mahindra Bolero truck. Therefore, we are of the opinion that the Tribunal has rightly held that the driver of the truck is the cause of accident.

9. Insofar as the loss of income is concerned, though it was stated that the petitioner was an agriculturist and was earning a sum of Rs.15,00,000/- per year, the petitioner had not produced sufficient documents to prove his income on the date of accident. The petitioner is also aged 70 years. Therefore, the Tribunal fixed his notional income at Rs.10,000/- per month, which in our opinion is fair and reasonable.

10. Insofar as the medical expenses is concerned, the petitioner had underwent major treatment at MIOT hospital for the left leg crush



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injury sustained by him. His left leg was amputated below the knee and he incurred a huge sum in the said hospital. He had produced the medical bills under Ex.P12 and vouchers which shows that the petitioner incurred a sum of Rs.14,68,716/-. Hence, the Tribunal has awarded the said sum towards medical expenses. We are of the opinion that the said amount awarded towards medical expenses, does not warrant any interference from this Court.

11. As regards the amount of Rs.3,00,000/- awarded under the head 'pain and sufferings' is concerned, this Court is of the view that the said amount is on the higher side. Therefore, we are of the view that a sum of Rs.1,00,000/- for pain and sufferings would be reasonable. Accordingly, we award a sum of Rs.1,00,000/- towards pain and sufferings instead of Rs.3,00,000/- awarded by the Tribunal. The Tribunal has awarded a sum of Rs.25,000/- towards loss of comfort and basic amenities which is just and proper.

12. Insofar as the award granted under the other heads viz., permanent disability, transport expenses, attender charges and extra



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nourishment are concerned, we are of the view that the amount awarded under the aforesaid heads are fair and proper and need no interference by this Court.

13. In the light of the above, the compensation awarded by the Tribunal is hereby modified as under:

<i>Description</i>	<i>Amount awarded by Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>	<i>Award confirmed or enhanced or granted</i>
Pain and sufferings	3,00,000	1,00,000	Reduced
For permanent disability	4,68,000	1,00,000	Confirmed
For Medical expenses	14,68,716	14,68,716	Confirmed
Loss of income	60,000	60,000	Confirmed
For Transport expenses	25,000	25,000	Confirmed
For attender charges	25,000	25,000	Confirmed
For extra nourishment	20,000	20,000	Confirmed
Loss of Comfort and basic amenities	25,000	25,000	Confirmed
Total	23,91,716	21,91,716	
Rounded off into	23,92,000	21,92,000	Reduced

14. In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.23,92,000/- is hereby reduced to Rs.21,92,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant-Insurance Company is directed to deposit the award amount now



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determined by this Court along with interest and costs, less the amount, if any, already deposited, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.291 of 2022 on the file of the Motor Accident Claims Tribunal, Additional Sub Judge(FAC), Puducherry. If the entire award amount passed by the Tribunal has been deposited by the Insurance Company to the credit of said MCOP as per the interim order of stay dated 21.10.2024 passed by this Court, the Insurance Company is permitted to withdraw the excess amount, if any, lying in the credit of MCOP. The other directions issued by the Tribunal and the mode of payment of compensation remain unaltered. No costs. Consequently, connected miscellaneous petitions are closed.

(J.N.B, J.) (R.S.V., J.)
29.01.2025

Index : Yes / No
Speaking/Non-speaking order
vsi

To

- 1.The Motor Accident Claims Tribunal,
Additional Sub-Judge (FAC),
Puducherry.
2. The Section Officer,
VR Section, High Court, Chennai.



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J. NISHA BANU, J.
and
R. SAKTHIVEL, J.

vsi/tk

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