

CMA. No.3065 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2025

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.3065 of 2021

Mr. C. Praveen Kumar

...Appellant

Versus

1. Mr. Prakash Jain,

2. Relaince General Insurance Company Ltd.,
No.6, 6th Floor, Haddows Road,
Nungambakkam, Chennai – 6.

...Respondents

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988), to allow this appeal and be pleased to enhance the amount awarded in M.C.O.P.No.1601 of 2015 dated 01.04.2021 on the file of the Motor Accident Claims Tribunal (VI Small Causes Court), Chennai.

For Appellant : Mr. K. Varadha Kamaraj

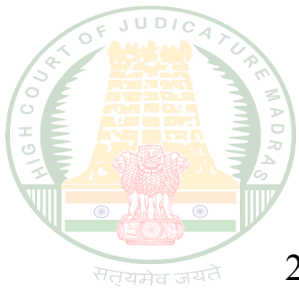
For Respondents : Ms. C. Harini for

M/s. M.B. Gopalan Assoc. (for R2)

: R1 - Died

J U D G M E N T

Challenging the award passed by the Motor Accident Claims Tribunal (VI Small Causes Court), Chennai in M.C.O.P. No. 1601 of 2015 dated 01.04.2021, the appellant/claimant has preferred this appeal.



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2. As per the claim petition, on 22.01.2015 the claimant was riding the motor cycle bearing Registration No. TN-07-BL-6654. When he was driving the vehicle in front of the house bearing Door No.552, M.K.B. Nagar, East Avenue Road, Vyasarpadi, the car bearing Registration No. TN-01-AD 3597, which was driven from the opposite side, in a rash and negligent manner, hit the motor vehicle driven by the claimant. In connection with the aforesaid accident, a case in Crime No.29/P2/201 was registered on the file of G-3, Kilpauk Traffic Investigation Wing for the offences punishable under Section 279 and 338 of IPC against the driver of the Car.

3. According to the claimant, in the accident, he suffered injuries on his head, forehead, face, jaws, left hand, left foot, left leg and also fracture, as well as internal and external injuries all over his body. For the injuries sustained in the accident he was admitted in Government Stanley Medical College Hospital and after first aid, he was taken to Apollo Hospital, Tondiarpet where he was given treatment till 18.02.2015 and he was re-admitted in the hospital on 23.02.2015 till 02.03.2015 since he suffered giddiness and frequent vomiting. Thereafter also, from 09.11.2015



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to 10.11.2015, he was again admitted in the hospital. The hospital records would disclose that the claimant suffered laceration in left knee and swelling in left shoulder, abrasion in right CRY and swelling left ankle and multiple soft tissue injuries all over his body. At the time of accident, the claimant was working as a Salesman and earning Rs.10,000/- per month. The Doctor, who treated the claimant, has certified that he suffered 37% disability. Therefore, the claimant filed the claim petition claiming Rs.50 Lakhs as compensation.

4. On notice, the second respondent-Insurance Company opposed the claim petition mainly on the ground that the claimant was a minor at the time of accident and he is not entitled to drive a Motor vehicle. It was also contended that the claimant also contributed for the accident. Furthermore, when two vehicles collided with each other, the claimant ought to have impleaded the owner as well as the insurer of the two wheeler. It was also contended that at the time of accident, there was no valid insurance policy issued to the car involved in the accident. While so, the insurance company cannot be mulcted with any liability to pay the compensation to the claimant. Accordingly, the second respondent prayed for dismissal of the



claim petition.

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5. Before the Tribunal, the claimant examined himself as P.W.1 and marked Exs.P1 to P10 documents. On the side of the second respondent-Insurance Company one Mr. Venkataraman was examined as R.W.1 and Exs. R1 to R2 were marked. The report of the Medical Board was marked as Ex.C1.

6. After hearing both sides and analyzing the entire oral and documentary evidence adduced before the Tribunal, the following compensation was awarded :-

<i>Sl.No</i>	<i>Description</i>	<i>Amount awarded by Tribunal</i>
1.	Functional Disability	Rs.3,99,600/-
2.	Pain and Suffering	Rs.25,000/-
3.	Extra Nourishment	Rs.20,000/-
4.	Transportation	Rs.20,000/-
5.	Damaged to Cloths	Rs.1,000/-
6.	Attender Charges	Rs.17,500/-
7.	Medical Expenses	Rs.5,47,812/-
8.	Loss of Amenities	Rs.20,000/-
	Total	Rs.10,50,912/- rounded off to Rs.10,51,000/-
	Less : 30% of Rs.3,15,300/- for contributory negligence	Rs.7,35,700/- rounded off to Rs.7,36,000/-

7. Learned counsel for the appellant submits that the Tribunal



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without taking note of the fact that the accident took place in the year 2015 and the cost of living prevailing at that time, erroneously fixed the notional income at Rs.5,000/- for the appellant/claimant, who sustained multiple grievous injuries. According to the learned counsel for the appellant-claimant, taking note of the prevailing cost of living, the income of the claimant should have been fixed at Rs.9,000/- per month. Accordingly, the learned counsel for the appellant prayed for enhancement of compensation.

8. Learned counsel appearing for the second respondent/ Insurance Company raised an objection, stating that at the time of accident, the claimant was a minor and the accident occurred due to his own negligence. Therefore, the notional income fixed by the Tribunal is reasonable and needs no interference. Hence, he prayed for dismissal of this appeal.

9. Heard the learned counsel for the appellant/claimant and the learned counsel appearing for the respondent/Insurance Company and also perused the materials available on record.

10. Upon perusal of the record, it shows that the accident occurred

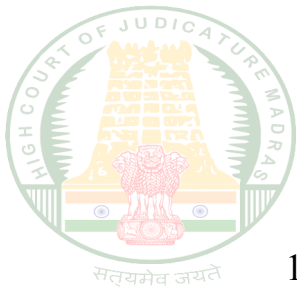


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in the year 2015 and at the time of accident the claimant's age was 17 years.

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According to the age, the notional income of Rs.5,000/- fixed by the Tribunal is meagre one. This Court is of the opinion that by calculating a minimum wage of Rs.300/- per day, it should be Rs.9,000/- per month. Thus, taking note of the age of the claimant, this Court fixes notional income at Rs.9,000/- with 40% future prospects. As per the ratio laid down by the Hon'ble Supreme Court of India, in the case of ***Syed Sadiq Vs. United India Insurance Company*** reported in **2014 (1) TANMAC 459**, fixing a notional income of Rs.9,000/- and adding future prospects at 40%, as has been held by the Constitution Bench in the case of ***National Insurance Company Limited Vs. Pranay sethi and others*** reported in **2017 (16) Supreme Court Cases 680**, the total income per month is quantified at Rs.12,600/- and the injured being aged about 17 years, as evidenced from the records, adopting the multiplier of '18' as fixed by the Apex Court in the case of ***Sarla Verma and Ors. v. DTC & Ors.*** reported in **(2009) 6 SCC 121**, the loss of income per month to the claimant is hereby arrived at Rs.12,600/- (Rs.9,000/- x 40% = 3600 +9000).



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11. Considering the period of hospitalization and the nature of injuries suffered by the claimant, the sum of Rs.25,000/- awarded by the Tribunal towards pain and suffering is meager and it requires to be scaled up. Accordingly, for pain and suffering, Rs.50,000/- is hereby awarded.

12. Similarly, for Extra Nourishment, a sum of Rs.20,000/- was awarded which is on the lower side. Therefore, for Extra Nourishment, a sum of Rs.30,000/- is hereby awarded.

13. As far as the 30% Contributory Negligence fixed on the claimant/appellant is concerned, it does not require any interference by this Court and therefore it is hereby confirmed. Similarly, the compensation awarded under other heads remain unaltered.

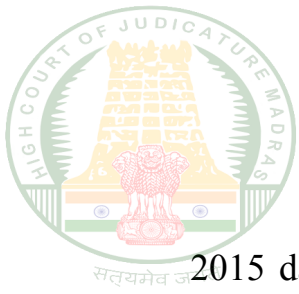
14. In the light of the above, this Court modifies the compensation in the following manner:-

<i>Sl.No</i>	<i>Description</i>	<i>Amount awarded by Tribunal</i>	<i>Awarded by this Court</i>
1.	Functional	Rs.3,99,600/-	Rs.10,06,992/-



<i>Sl.No</i>	<i>Description</i>	<i>Amount awarded by Tribunal</i>	<i>Awarded by this Court</i>
	Disability	Rs.5,000x12x18x37%	Rs.12,600x12x18x37%
2.	Pain and Suffering	Rs.25,000/-	Rs.50,000/-
3.	Extra Nourishment	Rs.20,000/-	Rs.30,000/-
4.	Transportation	Rs.20,000/-	Rs.20,000/-
5.	Damaged to Cloths	Rs.1,000/-	Rs.1,000/-
6.	Attender Charges	Rs.17,500/-	Rs.17,500/-
7.	Medical Expenses	Rs.5,47,812/-	Rs.5,47,812/-
8.	Loss of Amenities	Rs.20,000/-	Rs.20,000/-
	Total	Rs.10,50,912/- rounded off to Rs.10,51,000/-	Rs.16,93,304/-
	Less : 30% contributory negligence	Rs.3,15,300/-	Rs.5,07,991.2/-
	After deducting 30% of contributory negligence	Rs.7,35,700/- rounded off to Rs.7,36,000/-	Rs.11,85,312.8/- rounded off to Rs.11,85,313/-

15. In the result, this Civil Miscellaneous Appeal is allowed in part and the compensation awarded by the Tribunal at Rs.7,36,000/- is hereby enhanced to **Rs.11,85,313/-** together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. The second respondent/Insurance Company is directed to deposit the entire award amount now determined by this Court along with interest, less the amount already deposited, if any, within a period of (8) eight weeks from the date of receipt of a copy of this Judgment, to the credit of M.C.O.P.No.1601 of



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2015 dated 01.04.2021 on the file of the Motor Accident Claims Tribunal (VI Small Causes Court), Chennai. On such deposit, the appellant is permitted to withdraw the award amount now determined by this Court, along with interest, less the amount, if any, already withdrawn, by making proper application before the Tribunal. The appellant/claimant is directed to pay the Court fee for the enhancement compensation amount, if required. The Tribunal below shall not disburse the amount till such time as proof of payment of Court Fee has been produced by the claimant. No costs.

18.06.2025

Speaking / Non Speaking order

Neutral Citation : Yes/No

Index :Yes/No

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To.

- 1.The Motor Accident Claims Tribunal
(VI Small Causes Court), Chennai.
2. The Section Officer, VR Section,
High Court of Madras.



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T.V.THAMILSELVI,J.

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