



WEB COPY

CMA No. 2300 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-06-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 2300 of 2023

1. Uddala Narasamma
W/o.Uddala Penchala Narasaiah,
No.138/120, Naculapadu Post,
Atmakur, Nellore, Andhra Pradesh-
524322

Appellant(s)

Vs

1. G.Kamakshaiah
S/o.G.Venkateswarlu, Nellore Palem,
Atmakur, Nellore District, Andhra
Pradesh-524322

2.United India Insurance Co. Ltd.
Silingi Building 4th Floor, No.134,
Greaves Road, Chennai-600006

Respondent(s)

PRAYER:Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to enhance the award dated 29.11.2022 and made in MACTOP No.3020/2018 on the file of the Motor Accident Claims Tribunal II Judge, Small Causes Court, Chennai.



WEB COPY

CMA No. 2300 of 2023



For Appellant(s): Mr.S.R.Suga

For Respondent(s): M/s R. Sreevidhya For R2
R1 - Dispensed With

JUDGMENT

The appellant has filed this appeal seeking enhancement of the compensation awarded in MACTOP No.3020/2018 on the file of the Motor Accident Claims Tribunal II Judge, Small Causes Court, Chennai, dated 29.11.2022.

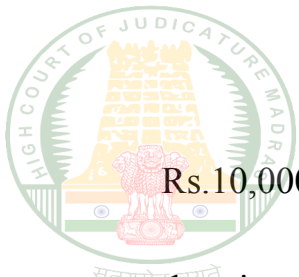
2. The brief facts of the case of the appellant / claimant are as follows: On 27.03.2017 at about 17:15 hours, while the appellant was travelling in an auto-rickshaw bearing Registration No. AP-26-TF-0839, proceeding from Nellore Palem to Vinjamuru Road near the Electrical Sub-Station at Nellore Palem, Atmakur Town, Andhra Pradesh, a motorcycle bearing Registration No. AP-26-BE-6879, ridden in a rash and negligent manner and endangering public safety, collided with the said auto-rickshaw. Due to the impact, the auto-rickshaw capsized, resulting in the appellant/petitioner sustaining grievous injuries. The accident occurred solely due to the rash and negligent riding of the above-



mentioned motorcycle. Since the first respondent is the owner of the vehicle and the second respondent is the insurer, both are vicariously and statutorily liable to pay compensation to the appellant.

3. Upon considering the oral and documentary evidence, the Tribunal partly allowed the claim petition and awarded a sum of Rs.5,32,500/- as compensation, directing the 2nd respondents to pay the said amount to the appellant, along with interest at the rate of 7.5% per annum from the date of the petition till the date of realization (excluding the period of dismissal for default, if any).

4. The learned counsel for the appellant submitted that the Tribunal erroneously fixed the monthly income of the claimant and failed to consider that the claimant was running a tiffin stall. The Tribunal fixed the income at Rs.10,000/- per month, despite the appellant claiming an income of Rs.1,800/- per day. The learned counsel further submitted that the claimant underwent continuous treatment for nearly 75 days. However, the Tribunal awarded only



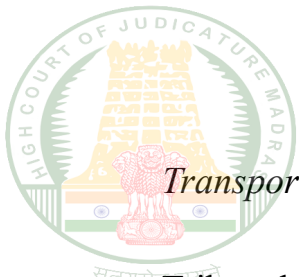
Rs.10,000/- towards loss of income, without properly appreciating the long duration of treatment.

WEB COPY

5. However, as rightly pointed out by the learned counsel for the second respondent, there was no material evidence produced by the appellant to substantiate the claim of Rs.1,800/- daily income. Therefore, the Tribunal adopted a notional income of Rs.10,000/- per month.

6. Considering the fact that the accident took place in the year 2017 and also the prevailing cost of living, this Court is inclined to enhance the monthly notional income from Rs.10,000/- to Rs.15,000/-. The discharge summary filed by the claimant proves that she underwent treatment from March to August 2018, nearly 6 months. Considering this, the loss of income is calculated for 8 months at the enhanced monthly income of Rs.15,000/-, which amounts to $\text{Rs.15,000} \times 8 = \text{Rs.1,20,000/-}$.

7. With regard to disability, the learned counsel for the appellant relied on the decision of the Hon'ble Supreme Court in *Sarla Verma & Others v. Delhi*



Transport Corporation & Another, (2009) 6 SCC 121, and contended that the

Tribunal ought to have applied the multiplier method instead of computing the award on a per percentage basis. The award as passed is illegal and liable to be modified.

8. The learned counsel for the second respondent submitted that the claimant did not suffer any permanent disability but sustained a fracture for which she took treatment. The Tribunal considered Exhibit C1, the disability certificate issued by the Medical Board, certifying 60% disability. The Tribunal awarded compensation based on Rs.5,000/- per percentage of disability, which was reasonable and requires no interference.

9. The learned counsel for the appellant, however, reiterated that the multiplier method ought to have been applied and requested the Court to apply the same.

10. On perusal of the injuries sustained by the claimant , RTA with compound Grade III fracture and floating elbow, which required surgical intervention, though no permanent disability is noted, the Medical Board



certified 60% disability. The Tribunal had fixed Rs.5,000/- per percentage.

Considering that the accident took place in 2017 and the nature of the injury,

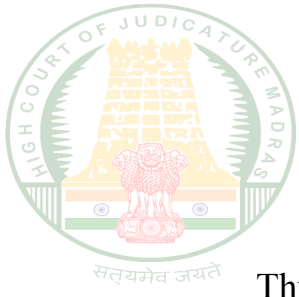
this Court is inclined to enhance the compensation to Rs.7,000/- per percentage.

Accordingly, $60\% \times \text{Rs.7,000} = \text{Rs.4,20,000/-}$ is awarded towards disability.

11. As the claimant underwent treatment for nearly six months, the amount towards attender charges is enhanced to Rs.60,000/-. Similarly, the amount towards transport charges is enhanced to Rs.30,000/-.

12. 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	3,00,000	4,20,000
2.	Pain and sufferings	80,000	80,000
3.	Loss of earning during treatment	10,000	1,20,000
4.	Medical Expenses	12,452	12,452
5.	Loss of Amenities	80,000	80,000
6.	Attender Charges	10,000	60,000
7.	Transportation charges	20,000	30,000
8.	Extra Nourishment	20,000	20,000
	Total	Rs.5,32,452/-	Rs.8,22,452



WEB COPY

Thus, the compensation awarded by the Tribunal is enhanced from Rs.5,32,452/- to Rs.8,22,452/-, which shall carry interest at the rate of 7.5% per annum.

13. 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.5,32,452/- to Rs.8,22,452/-.
- 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, United India Insurance Company Limited, Chennai-600 006, is directed to deposit the enhanced compensation amount, i.e., Rs.8,22,452 /- (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 deposit, to the credit of M.A.C.T.O.P. No.3020 of 2018 on the file of the

WEB COPY

Motor Accident Claims Tribunal II Judge, Small Causes Court, Chennai, within a period of eight weeks from the date of receipt or uploading of a copy of this order.

v. On such deposit being made by the second respondent, 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.

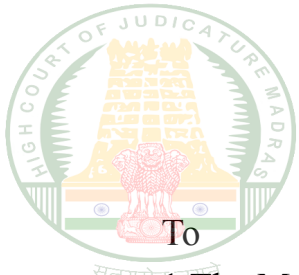
05.06.2025

Index: Yes/No

Speaking/non Speaking order

Neutral Case citation: yes/no

rri



CMA No. 2300 of 2023



WEB COPY

1. The Motor Accident Claims Tribunal II Judge,
Small Causes Court, Chennai.

2. The United India Insurance Co. Ltd.
Silingi Building 4th Floor, No.134, Greaves Road,
Chennai-600006

3. The Section Officer, V.R. Section,
High Court of Madras.



WEB COPY

CMA No. 2300 of 2023



T.V.THAMILSELVI J.
rri

CMA No. 2300 of 2023

05-06-2025