



WEB COPY



CMA.No.3317 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :04.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.3317 of 2021

S.Pandian

... Appellant

Vs.

1.M.Antony Raj

2. The Universal Sompo General Insurance Company Limited

Unit 401, 4th floor, Sangam Complex

No.127, Andheri Kuria Road, Andheri (East)

Mumbai-400 059

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, to enhance the amount awarded in MCOP.NO.286 of 2017 dated 10.12.2020 on the file of Motor Accident Claims Tribunal, (Subordinate Judge), Poonamallee.

For appellant : Mr.K.Varadha Kamaraj

For Respondents : M/s.R.Sree Vidhya for R2

R1- served-No appearance



CMA.No.3317 of 2021

WEB COPY

JUDGMENT

Aggrieved by the quantum of compensation granted by the Motor Accident Claims Tribunal, the injured claimant has come before this court by way of this appeal.

2. It is not in dispute that on 30.10.2017, at about 16.15 hours, when the petitioner was riding a motorcycle, a car belongs to the first respondent came in opposite direction in a rash and negligent manner crossed and dashed against the petitioner's vehicle. As a result of which, the petitioner suffered fractures in his left leg. The petitioner had undergone surgery for correction of fracture. Both the counsels have not advanced any arguments on the negligence and liability aspect. Therefore, the facts necessary for deciding the negligence as well as liability aspect have not been considered in detail.

3. The Tribunal, taking into consideration the evidence available



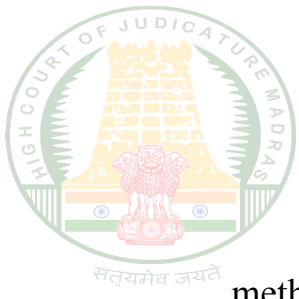
CMA.No.3317 of 2021

WEB COPY

on record, has fixed compensation of Rs.1,34,555/- with interest of 7.5% per annum. Not satisfied with the quantum of compensation, the appellant/claimant has come before this court.

4. The learned counsel for the appellant/claimant submitted that as per Exhibit C-1, the report of the District Medical Board, petitioner suffered a disability of 25%. The petitioner is a driver by occupation and the disability suffered by him will have impact on his avocation and hence, the Tribunal should have applied multiplier method. The learned counsel also submitted that that the compensation awarded by the Tribunal under various heads namely pain and suffering, extra nourishment, attendant charges, transportation expenses and loss of income during treatment period etc., requires enhancement.

5. The learned counsel for the second respondent/Insurance company submitted that absolutely there is no evidence available on record to suggest that injuries suffered by the petitioner restricted his left leg movement and hence, it interfered with the avocation of the petitioner. Therefore, the learned counsel submitted that the multiplier



CMA.No.3317 of 2021

WEB COPY

method has not been applied in the facts and circumstances of the case.

6. A perusal of the Disability Certificate, Exhibit-C1 issued by the Medical Board would suggest that the petitioner, at the time of issuing the Certificate, had difficulty in walking. Taking into consideration the complaints that existed at the time of issuing the certificate, the Medical Board opined that the claimant suffered a disability of 25%. In the Disability Certificate issued by the Medical Board, there is no mention about the restriction of left leg movements. Therefore, we cannot come to a definite conclusion that the disabilities suffered by the petitioner will cause interference in his avocation as a driver. However, the Tribunal granted only Rs.3,000/- per percentage.

7. As per the law laid down by the Division Bench of this Court in CMA.No.3334 of 2021, taking into consideration the date of accident, this Court fixes Rs.7,000/- per percentage of the disability. Therefore, the petitioner is entitled to Rs.1,75,000/- under the head 'Partial Permanent Disability' instead of Rs.75,000/- awarded by the Tribunal.



CMA.No.3317 of 2021

WEB COPY

8. Taking into consideration the fractures suffered by the petitioner in his left leg and the period of treatment, this Court feels that various amounts awarded by the Tribunal under the following heads needs to be increased as mentioned in the table.

9. The Tribunal fixed the income of the deceased as Rs.7,500/- and granted a loss of income for three months period. Having regard to the date of accident i.e., 30.10.2017, this Court fixes the income of the claimant as Rs.15,000/- per month. For three months period, the claimant is entitled to Rs.45,000/- instead of Rs.22,500/- as awarded by the Tribunal. In view of the discussion made earlier, the claimant is entitled to Rs.2,81,055/- instead of Rs 1,34,555/- as granted by the Tribunal. The split up details of modified award is given below:-

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Pain and Suffering	20,000/-	25,000/-	Enhanced



WEB COPY

2.	Attender Charges	3,000/-	10,000/-	Enhanced
3.	Extra Nourishments	5,000/-	10,000/-	Enhanced
4.	Transportation Expenses	3,000/-	10,000/-	Enhanced
5.	Permanent Disability	75,000/-	1,75,000/-	Enhanced
6.	Loss of Income	22,500/-	45,000/-	Enhanced
7.	Medical Expenses	3,055/-	3,055/-	Confirmed
8.	Loss of Amenities	3000/-	3000/-	Confirmed
	Total	1,34,555/-	2,81,055/-	Enhanced by Rs.1,46,500 /-

10. With the above modifications, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,34,555/- is hereby enhanced to Rs.2,81,055/- The appellant is entitled to interest at the rate of 7.5% per annum (excluding the default period, if any) from the date of filing of the claim petition till the date of realization. The second respondent/Insurance Company is directed to deposit the enhanced sum along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of copy of this judgment. On deposit of the enhanced sum,



CMA.No.3317 of 2021

WEB COPY

the appellant/claimant is entitled to withdraw the same along with interest and costs, less the amount if any, already withdrawn by filing a formal application before the Tribunal. The appellant is directed to pay the necessary Court Fee, if any, on the enhanced award amount. No costs.

04.02.2025

Index:Yes/No
Internet:Yes/No
nr

To

- 1.The Motor Accident Claims Tribunal, (Subordinate Judge),
Poonamallee.
2. The Section Officer,
VR Section,
High Court, Madras.



WEB COPY



CMA.No.3317 of 2021

S.SOUNTHAR, J.

nr

CMA No.3317 of 2021

04.02.2025