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CMA.No.958 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 28.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.958 of 2025

Jayamurugan

... Appellant

Vs.

1. Shanmuganathan

2 . Krishna Murali Gupta

3 . National Insurance Company Limited,
Karaikal, rep. by its Branch Manager,
having office at No.252-A, 1st floor,
Bharathiar Road, Karaikal Town & District.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 to enhance the compensation awarded in MCOP No.27 of 2019, dated 14.06.2023 on the file of the Sub Judge, Motor Accident Claims Tribunal, Karaikkal.

For appellant : Mr.K.Varadha Kamaraj

For Respondents : Mr.N.B.Surekha for third respondent



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JUDGMENT

Not satisfied with the quantum of compensation awarded by the Tribunal, the injured/claimant has come before this court by filing the present appeal.

2. It is the case of the claimant that he was riding a motorcycle on 06.11.2018 from T.R.Pattinam to Karaikal along Nagore Main Road. When he came near Neravy 1st road, the first respondent, who came in the opposite direction had driven his motorcycle bearing registration NO.UP 93 AD 9914 in a rash and negligent manner and dashed against the back of the appellant. Hence, the claimant suffered grievous injuries. The appellant filed a claim petition before the Tribunal seeking compensation of Rs.20,00,000/-.

3. The first and second respondents, who were the driver and owner of the vehicle, remained exparte before the Tribunal and the claim petition was contested only by the third respondent, insurer of the offending motorcycle.



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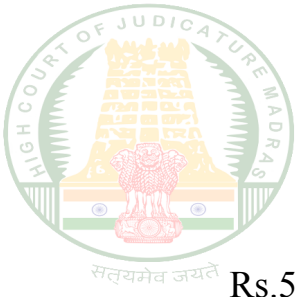
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4. It was the case of the insurer that the first respondent had driven the vehicle carefully and the accident had occurred only due to the negligence on the part of the claimant.

5. The Tribunal, based on the evidence available on record, came to the conclusion that the accident had occurred only due to the rash and negligent driving of the vehicle by the first respondent, insured with the third respondent and quantified the compensation payable to the claimant at Rs.3,36,977/-. Not satisfied with the quantum of compensation, the claimant has filed the present appeal.

6. Both the counsel for the appellant and the third respondent have not advanced any arguments on the questions of negligence and liability and therefore, the facts necessary for fixing negligence and liability have not been considered in the present appeal.

7. The learned counsel for the appellant/claimant would submit that the accident had occurred in the year 2018 and the claimant suffered disability at 26%, however, the Tribunal granted only a sum of



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Rs.5,000/- per percentage and the same is very much on lower side.

He further submits that the amount awarded by the Tribunal under the head loss of income during the treatment period is very meager and the same needs enhancement.

8. The learned counsel for the third respondent/insurer of the offending vehicle would submit that the claimant has not produced any evidence to prove the avocation and income of the claimant and therefore, the Tribunal was justified in granting a sum Rs.32,000/- towards loss of income during the treatment. He further submitted that a sum of Rs.5,000/- awarded by the Tribunal towards per percentage of disability is reasonable.

9. The Tribunal, in its award, observed that the Medical Board examined the claimant and fixed the disability percentage at 28%. However, at the time of quantifying the compensation for disability, the Tribunal had taken disability at 26% only.



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10. The learned counsel for the appellant produced certified copy of the disability certificate issued to him by the Medical Board of the Government Hospital, Karaikkal. A perusal of the same would indicate that the disability was fixed at 26% only. Therefore, this court proceeds to award compensation, taking into consideration the disability suffered by the claimant at 26%. The accident had occurred in the year 2018 and hence, taking into consideration the facts and circumstances of the case, this court feels that it would be appropriate to fix a sum of Rs.7,000/- per percentage of the disability. Therefore, the appellant/claimant is entitled to Rs.1,82,000/- (26 x 7000) under the head disability.

11. Having regard to the date of accident and the cost of living, this court proceeds to fix notional income of the claimant at Rs.15,000/- . Ex.P5 discharge summary indicates that the claimant suffered fracture in his ankle and un-displaced fracture in 3,4,5 M.T. left foot. Therefore, this court is inclined to grant compensation for three months towards loss of income. Accordingly, the amount awarded by the Tribunal for loss of income during treatment period is enhanced to Rs.45,000/-.

12. The amount awarded by the Tribunal under the various other



heads are just and reasonable and hence, they are confirmed.

13. Accordingly, the revised compensation awarded by this Court is tabulated as under:

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Future loss of earnings	1,30,000	1,82,000	enhanced
2.	Pain and sufferings	20,000	20,000	confirmed
3.	Loss of amenities	20,000	20,000	confirmed
4.	Loss of income	32,000	45,000	enhanced
5	Attender expenses	20,000	20,000	confirmed
6	Transport expenses	10,000	10,000	confirmed
7	Extra nourishment	10,000	10,000	confirmed
8	Damages to the dress	1,000	1,000	confirmed
9.	Medical bills	93,977	93,977	confirmed
	Total	3,36,977	4,01,977	enhanced by Rs.65,000

14. With the above modifications, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.3,36,977- is hereby enhanced to **Rs.4,01,977/-** together with



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interest at 7.5% per annum from the date of claim petition till the date of deposit.

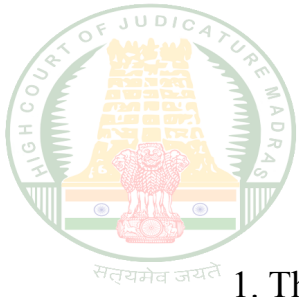
15. The **third respondent** is directed to deposit the compensation amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of **six weeks** from the date of receipt of a copy of this judgment. On such deposit being made, the claimant shall be permitted to withdraw the compensation amount along with interest and costs, less the amount if any, already withdrawn, by making formal application before the Tribunal.

There shall be no order as to costs.

28.03.2025

Index : Yes/No
Speaking order : Yes/No
Neutral citation : Yes/No
mst

To



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1. The Sub Judge,
Motor Accident Claims Tribunal,
Karaikkal.
 2. The Section Officer,
V.R.Section, Madras High Court.



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S.SOUNTHAR, J.

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