



CMA.No.2692 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 13.03.2025

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA.No.2692 of 2022
and CMP.No.16144 of 2022

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... Appellant

Vs.

1.Anandhi
(Since R1 remained ex-parte before the Tribunal
her presence may be dispensed with)

2.The Divisional Manager,
National Insurance Company Limited,
No.19, Officer's Line, Vellore.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to enhance the award dated 23.10.2021 and made in MACTOP.No.292 of 2017, on the file of the Motor Accident Claims Tribunal, Special Sub Court, Tiruvannamalai.

For Appellant : Mr.A.G.F.Terry Chella Raja

For Respondents : Mr.M.J.Vijayaraghavan for R2
Notice Dispensed With for R1



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J U D G M E N T

The appellant/injured claimant, not being satisfied with the quantum of compensation awarded by the Motor Accidents Claims Tribunal Special Sub Court, Tiruvannamalai, in MACTOP.No.292 of 2017, dated 23.10.2021, has come by way of this Civil Miscellaneous Appeal.

2. It is not in dispute that the appellant/claimant suffered head injury in a road accident that had taken place on 18.12.2016. It was the case of the claimant that he was travelling in a car at the relevant point of time along with his family members. The first respondent driver of the vehicle had driven the vehicle in a rash and negligent manner and dashed against a tamarind tree. Therefore, the claim petition was filed seeking compensation of Rs.10,00,000/-.

3. The first respondent is the owner of the vehicle and the second respondent is the insurer of the car. The Tribunal quantified the compensation payable to the claimant at Rs.2,73,666/-. Aggrieved by the quantum of compensation, the claimant has come before this Court.



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4. The learned counsel appearing for the appellant as well as the second respondent/Insurance Company have not advanced any arguments on the questions of negligence and liability aspects. Therefore, necessary facts for considering those questions are not discussed in this judgment.

5. The learned counsel appearing for the appellant would submit that the claimant suffered head injury and right frontal bone was removed and he was in hospital for 36 days. The Tribunal without taking into consideration the nature of injury and disability suffered adopted percentage method, while calculating compensation under the head of disability. According to him, the Tribunal ought to have applied multiplier method and awarded enhanced compensation.

6. The learned counsel appearing for the second respondent/Insurance Company would submit that the evidence available on record would show that the disability suffered by the injured would not interfere with his avocation and hence the Tribunal was justified in calculating the compensation on percentage basis. Ex.P10-copy of the out patient medical records maintained by Chettinad Super Speciality Hospital,



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Ex.P11-Discharge summary issued by Tamil Nadu Multi Super Speciality Hospital, Chennai, and Ex.P15-Discharge summary issued by Rajiv Gandhi

Government General Hospital, Chennai, would establish that the claimant's treatment has been prolonged. A perusal of the said documents would establish, he suffered fracture in the left frontal bone and due to the complication arising out of the said injury, a portion of the left frontal bone was removed. The disfigurement created in his face due to the removal of the portion of the frontal bone and the depression to the extent of two inches was noted by the Tribunal, when the claimant was examined as PW.3. Therefore, it is clear that the portion of his frontal bone was removed. /The Medical Board which examined the claimant issued Ex.C2-disability certificate fixing disability at 30%. It is stated by the learned counsel for the claimant that injured was Mason at that relevant point of time and the disability suffered by him kept him out of job. However, there is no evidence available on record to show that the disability suffered by the claimant actually interfered with his avocation. Therefore, the amount of Rs.5,000/- fixed by the Tribunal is reasonable, taking into consideration, the date of accident.



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7. As mentioned earlier, the portion of the left frontal bone of

the claimant was removed and the same was not repaired by performing cranioplasty. The disfigurement suffered by him, due to the removal portion of the bone was noted by the Tribunal. Therefore, the frontal portion of claimant is unprotected and he has to be very careful, while the performing manual job. Taking into consideration the said fact, the amount awarded by the Tribunal under the head loss of amenities is increased to Rs.1,00,000/-. A perusal of the Medical records produced by the claimant as Exs.P10, P11 and P15 would indicate that he has been hospitalized nearly thrice in the months of March, April and May 2017. It is also seen that he has been in prolonged treatment as out patient for some period. Taking into consideration the said fact the amount of Rs.35,000/- awarded under the head pain and suffering is increased to Rs.1,00,000/-. The amount of Rs.10,000/- awarded under the head extra nourishment is increased to Rs.30,000/-. The prolonged illness would have certainly kept the claimant out of action for nearly eight months. Taking into consideration the date of accident, the notional income is fixed at Rs.15,000/- for a period of eight months. The claimant is entitled to Rs.1,20,000/- under the head loss of earning during treatment period. The amount awarded by the Tribunal



under the head attender charges is increased to Rs.20,000/-. The amount awarded under the head medical expenses, transport are affirmed.

8. In view of the discussions made earlier, the award passed by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)
1.	Disability (30%)	1,50,000/-	1,50,000/-
2.	Pain and sufferings	35,000/-	1,00,000/-
3.	Extra Nourishment	10,000/-	30,000/-
4.	Medical expenses	11,166/-	11,166/-
5.	Attender Charges	10,000/-	20,000/-
6.	Loss of earning during the treatment period	22,500/-	1,20,000/-
7.	Loss of Amenities	25,000/-	1,00,000/-
8.	Transportation Expenses	10,000/-	10,000/-
	Total	Rs.2,73,666/-	Rs.5,41,166/-

9. In view of the discussions made earlier, the claimant is entitled to a sum of Rs.5,41,166/- as against a sum of Rs.2,73,666/- awarded by the Tribunal. The claimant is entitled to interest at the rate of 7.5% per annum on the enhanced award. The 2nd respondent is directed to deposit the



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enhanced amount with interest within a period of four weeks from the date of a copy of this judgment, to the credit of MACTOP.No.292 of 2017, on the file of the Motor Accident Claims Tribunal, Special Sub Court, Tiruvannamalai. On such deposit, the appellant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount, if any, already withdrawn, by making formal application before the Tribunal.

10. Accordingly, this Civil Miscellaneous Appeal is partly allowed. Consequently, connected miscellaneous petition is closed. No costs.

13.03.2025

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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To
1.The Motor Accidents Claims Tribunal,
Special Sub Court, Tiruvannamalai.

2.The Section Officer
VR Section, High Court, Madras.



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S.SOUNTHAR, J.

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