



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:14.11.2025

CORAM

THE HONOURABLE MRS.JUSTICE R. KALAIMATHI

CMA No. 2649 of 2025

R. Srinivasan

.....

Appellant(s)

Vs

1. Asgar A.Khety

2. The Oriental Insurance Co. Ltd.,
No.2, 115/216, Prakasam Road,
Chennai 600 108.

.....

Respondent(s)

PRAYER: Civil Miscellaneous Appeal is filed under section 173 of the Motor Vehicles Act, 1988 praying to allow the above Civil Miscellaneous Appeal and enhance the award in the Order dated 16.12.2022 made in MCOP.No.976 of 2021, on the file of Special Sub Court No.1/ Court of Small Causes, Chennai

For Appellant(s) : M/s. P.T.Saleem Fathima



For Respondent No.1: Notice dispensed with

For Respondent No.2: Mr.J. Chandran

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JUDGMENT

By consent of both sides, the appeal is heard and disposed of at the stage of admission itself.

2. The claimant herein has preferred this Civil Miscellaneous Appeal against the Award dated 30.10.2023 made in MCOP.No.976 of 2021 by the Special Sub Court No.1/ Court of Small Causes, Chennai for enhancement of compensation.

3. The parties are indicated herein as per their litigative status and ranking before the Tribunal



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4. The facts leading to filing of this Civil Miscellaneous Appeal is as follows:

(i) On 12.01.2021 at about 11.00 hrs., while the claimant was proceeding in his Motor Cycle bearing Reg.No.TN-58-C-3282 from East to West at Prakasam Road, at the point of NSC Bose Road Junction, a motor cycle bearing Regn.No/TN-04-M-5682 proceeding from North to South direction, which was driven by its driver in a rash and negligent manner, dashed against the claimant. Due to the said impact, the claimant fell down and sustained left Distal Radius Intra Articular Fracture, Right 4th Metatarsal-Undisplaced Fracture of Base, Right Mandible Condyle Undisplaced fracture and multiple grievous injuries all over the body. The driver of the vehicle bearing Regn.No.TN-04-M-5682 alone was responsible for the accident.

(ii) The respondents 1 and 2 are owner and insurer of the offending vehicle respectively.

(iii) Since the accident occurred only due to the rash and negligent driving of the driver of the two wheeler bearing Regn.No.TN-04-M-5682, the 1st and 2nd



respondent - owner and insurer respectively of the offending vehicle are vicariously and statutorily liable to pay compensation to the claimant.

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(iv) The claimant made a claim petition before the Motor Accidents Claims Tribunal/ Special Sub Court No.1, Small Causes Court, Chennai claiming compensation of Rs.20,00,000/- against the respondents for the injuries sustained in the road traffic accident that occurred on 12.01.2021.

5. Refuting the averments made in the claim petition, counter was filed by the insurance company denying the fact that the accident was caused due to the rash and negligent driving of the 1st respondent vehicle which was insured with the 2nd respondent/Insurance Company. But it was caused due to the rash and careless driving of the claimant. It also disputed age, avocation, income of the claimant, injuries sustained by him and period of treatment underwent by him and claims that they are all subject to strict proof.

6. At trial, on the side of the claimants, one witness was examined and nine documents were marked. On the second respondent side, one witness was examined and two documents were marked. Ex.C.1 is Disability Certificate issued by the Medical Board.



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7. The Tribunal upon consideration of oral and documentary evidence and after hearing the arguments advanced by either side counsels, awarded compensation of Rs.1,90,200/- with 7.5% interest p.a., from the date of petition.

The Tribunal directed the 2nd respondent/Insurance company to pay the abovesaid compensation amount with liberty to recover the same from the first respondent.

8. The compensation awarded by the Tribunal to the claimants under various heads is as follows;

<i>Heads</i>	<i>Compensation awarded by the Tribunal (Rs.)</i>
For Disability	Rs. 1,10,000/-
For pain and sufferings	Rs. 30,000/-
For transport charge	Rs. 4000/-
For extra nourishment	Rs. 10,000/-
For Attender charges	Rs. 1,200/-
For Loss of earnings during treatment period	Rs. 25,000/-
For Loss of amenities	Rs. 10,000/-
Total	Rs.1,90,200/-

9. Learned counsel for the appellant/claimant would contend that the



amount granted for partial permanent disability is less and notional income of the claimant is fixed at Rs.12,500/- against the claim of Rs.25,000/- per month.

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Only for the period of two months, loss of income was granted by the Tribunal.

It is also further contended that for other heads namely pain and sufferings and attendant charges, the amounts awarded by the Tribunal are not adequate.

10. Learned counsel for the 2nd respondent would argue that the amounts awarded by the Tribunal under various heads appears to be reasonable and acceptable and hence it needs no interference by this Court.

11. The manner in which, the accident took place is not in dispute.

12. It has come on record from the evidence of PW1 that out of the accident, he suffered fracture of left Distal Radius Intra-Articular Fracture, Right 4th Metatarsal Undisplaced Fracture of base and right mandible condyle undisplaced fracture and for which, he took treatment as inpatient from 12.01.2021 to 15.01.2021 at Ramachandra Hospital, Chennai as per Ex.P.4 discharge summary. The Regional Medical Board of Kilpauk Medical College and Hospital, Chennai assessed the disability of the claimant as 22% and in

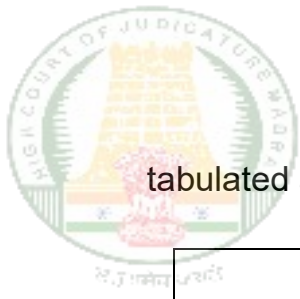


consideration of the above said details, the functional disability of the claimant is taken as 22%.

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13. PW1 would state that he was working as Area Sales Manager and earning a sum of Rs.1,20,000/- per annum. His employment identity card is Ex.P.5. In order to substantiate his monthly income, no document is marked. In consideration of age, avocation of the claimant, his income is fixed as Rs.20,000/- per month.

14. In consideration of the injuries/fractures suffered by the claimant, in order to meet the ends of justice, for attendant charges and for extra nourishment, an amount of Rs.5000/- under each head is granted in addition to the amount already granted by the tribunal. For loss of earning during treatment period, an amount of Rs.60,000/- is granted (Rs.20,000 x 3 months). For loss of amenities, a sum of Rs.10,000/- is granted in addition to the amount already granted by the tribunal. The date of accident is 12.01.2021. Taking into account the rise in cost of living, for the disability a sum of Rs.1,98,000/- (22 x 9000) is awarded. As regards, other heads, the amounts awarded by the tribunal appears to be reasonable and acceptable and hence, it does not warrant any interference by this court. The amounts awarded as mentioned supra after re-work are



tabulated as follows:

<i>Heads</i>	<i>Compensation awarded by the Tribunal (Rs.)</i>	<i>Compensation awarded by this Court</i>	
For Disability	Rs. 1,10,000/-	Rs.1,98,000/-	enhanced
For pain and sufferings	Rs. 30,000/-	Rs. 30,000/-	confirmed
For transport charges	Rs. 4000/-	Rs. 9000/-	enhanced
For extra nourishment	Rs. 10,000/-	Rs. 15,000/-	enhanced
For Attender charges	Rs. 1,200/-	Rs. 6,500/-	enhanced
For Loss of earnings	Rs. 25,000/-	Rs. 60,000/-	enhanced
For Loss of amenities	Rs. 10,000/-	Rs. 20,000/-	enhanced
Total	Rs. 1,90,200/-	Rs.3,38,500/-	enhanced

15. A sum of Rs.3,38,500/- is awarded as compensation for the claimants along with interest at the rate of 7.5% per annum from the date of petition till the date of realisation.

16. In the result,

- The Civil Miscellaneous Appeal is partly allowed. No costs.
- The compensation awarded by the Tribunal is enhanced from Rs.1,90,200/- to Rs.3,38,500/-
- The 2nd respondent /Insurance company is directed to deposit



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the enhanced compensation of Rs.3,38,500/- awarded by this Court to the credit of MCOP.No.976 of 2021 on the file of Motor Accidents Claims Tribunal, Special Sub Court No.1, Small Causes Court, Chennai, along with interest at the rate of 7.5% per annum from the date of petition, till the date of realisation, (excluding the period of default, if any) less the amount, if any deposited, within a period of eight weeks from the date of receipt of a copy of this judgment, at the first instance and later recover the same from the 1st respondent/owner of the insured vehicle.

- On such deposit, the appellant/claimant is at liberty to withdraw the amount now determined by this Court along with interest and costs, after adjusting the amount, if any already withdrawn, by filing relevant application before the Tribunal.
- The claimant is directed to pay the court fee for the enhanced compensation amount, if required. The Tribunal shall disburse the enhanced amount upon production of the certified copy showing proof of payment of Court Fee by the claimant/appellant.

msr

14.11.2025

Index:Yes/No

Internet:Yes

To

The Motor Accidents Claims Tribunal,
Special Sub Court No.1, Small Causes



Court, Chennai.

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R.KALAIMATHI J.

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