



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2025

CORAM

THE HONOURABLE MRS.JUSTICE R. KALAIMATHI

C.M.A.No.2423 of 2025

Perumal
S/o.Thirumalai

... Appellant

Vs

1. Perumal
S/o.Subramaniyan
2.Santhi Giridharan
3.The United India Insurance Co.Ltd.,
19/2A, Junction Main Road,
Salem District - 636 001.

...Respondents

PRAYER: This petition is filed under Section 173 of Motor Vehicle Act, to allow the above CMA and to enhance the compensation in the Award dated 17.08.2021 made in M.C.O.P.No.1346 of 2018, on the file of the MACT/Special Subordinate Judge No.II, Salem.

For Appellant : Mr.C.Paraneedharan

For R3 : Mr.D.Venkatachalam

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the claimant against the Award dated 17.08.2021 made in M.C.O.P.No.1346 of 2018 on the file of Special Subordinate Court No.II (to deal with MCOP cases), Salem, for enhancement of compensation.

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



3. According to the claimant, on 01.04.2018 at about 4.30 p.m., while he was proceeding in his two wheeler bearing Reg.No.TN 33 AJ-1974 (TVS XL Super – Moped) along Omalur Main Road on the left side, a bus bearing Reg.No.TN-30 AE-7887, which was proceeding in a rash and negligent manner, hit the claimant from behind. He sustained serious injuries on account of the accident. The first and second respondents who are the driver and owner of the said bus and the third respondent, who is the insurer of the above said bus, are liable to pay compensation to the claimant herein.

4. Upon consideration of oral and documentary evidence and after hearing the arguments advanced by the either side, the Tribunal awarded compensation of Rs.3,75,865/- with interest at 7.5% per annum and the amounts granted under different heads are given hereunder:-

Sl. No.	Description	Amount awarded by Tribunal
1	For Partial Permanent Disability (20% X Rs.5,000/-)	Rs.1,00,000/-
2	For Pain and Sufferings	Rs.25,000/-
3	For Loss of Amenities	Rs.25,000/-
4	For Medical Expenses (As per Ex.P5 series)	Rs.1,39,865/-
5	For Loss of Income during the treatment period (Rs.8,000/- X 6 months)	Rs.48,000/-
6	For Transport Charges	Rs.10,000/-
7	For extra nourishment	Rs.15,000/-
8	For Attender Charges	Rs.12,000/-
9	For damage of clothes	Rs.1,000/-



Sl. No.	Description	Amount awarded by Tribunal
	Total	Rs.3,75,865/-

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5. From the evidence of PW1, it is deducible that the claimant, on account of the accident occurred on 01.04.2018, suffered left ankle degloving injury with fracture of medial malleolus/fibula, for which, he had taken treatment at Salem, Government Medical Hospital and on the same day, he was admitted at a private hospital for further treatment till 12.04.2018 as an in-patient. The District Medical Board assessed the disability of the claimant as 20%.

6. In consideration of the aforesaid details, the Tribunal has taken the disability assessed by the Medical Board and granted Rs.5000/- per percentage of disability. As the injuries suffered by the claimant is a fracture and the degloving injury on the left ankle, the Tribunal has granted loss of Income for six months by fixing the monthly income as Rs.8,000/-.

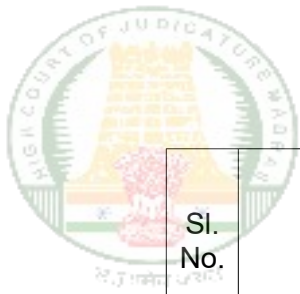
7. In consideration of the injuries suffered by the petitioner, the partial permanent disability suffered by the petitioner is fixed at 20% for whole body and due to escalation in prices, per percent Rs.7,000/- is granted. For partial permanent disability, a sum of Rs.1,40,000/- is granted. It is the evidence of P.W.1 that he was doing poultry business and earning a sum of Rs.15,000/- per month. To substantiate the same, no document is marked by the



claimant's side. Date of accident is 01.04.2018. In consideration of the said details, in order to do effective justice for the claimant, income is fixed at Rs.13,000/- per month. For loss of income, based on the fracture and injuries suffered by the claimant, an amount of Rs.52,000/- (13,000/- X 4 months) is granted. For pain and sufferings and for transport expenses, a sum of Rs.10,000/- is granted under each head in addition to the amount already granted by the Tribunal. For extra nourishment and for attender charges, Rs.5,000/- under each head is granted in addition to the amount already granted by the Tribunal.

8. As regards the fact that the claimant did ride his vehicle without driving license at the relevant point of time, during the cross-examination of P.W1, he would accede to the fact that he did not possess driving license to drive two-wheeler. As regards the non-wearing of helmet, P.W1 would state that at the time of accident, he was wearing helmet and during the accident, his helmet did break in the accident. In such circumstances, fixing contributory negligence upon the claimant at 20% is not acceptable and reduced to 10%.

9. The compensation awarded under different heads after rework is tabulated hereunder:-



Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For Partial Permanent Disability (Rs.20% x Rs.7000/-)	Rs.1,00,000/-	Rs.1,40,000/-	Enhanced
2	For Pain and Sufferings	Rs.25,000/-	Rs.35,000/-	Enhanced
3	For Loss of Amenities	Rs.25,000/-	Rs.25,000/-	Confirmed
4	For Medical Expenses (As per Ex.P5 series)	Rs.1,39,865/-	Rs.1,39,865/-	Confirmed
5	For Loss of Income during the treatment period	Rs.48,000/-	Rs.52,000/-	Enhanced
6	For Transport Expenses	Rs.10,000/-	Rs.20,000/-	Enhanced
7	For Extra Nourishment	Rs.15,000/-	Rs.20,000/-	Enhanced
8	For Attender Charges	Rs.12,000/-	Rs.17,000/-	Enhanced
9	For Damage of Clothes	Rs.1,000/-	Rs.1,000/-	Confirmed
	Total	Rs.3,75,865/-	Rs.4,49,865/-	
	Contributory negligence reduced to 10%	Rs.3,75,865/- - Rs.75,173/- =Rs.3,00,692/-	Rs.4,49,865/- - Rs.44,986/- = Rs.4,04,879/- Rounded off to Rs.4,05,000/-	Enhanced

10. Thus, the compensation awarded by the Tribunal is enhanced from Rs.3,00,692/- to Rs.4,05,000/- which would carry 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).

11. In the result,

(i) The Civil Miscellaneous Appeal stands partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.3,00,692/- to Rs.4,05,000/-.



(iii) The Insurance Company / 3rd respondent is directed to deposit the enhanced compensation amount now determined by this Court i.e.Rs.4,05,000/- (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit (excluding the period of default if any) to the credit of M.C.O.P.No.1346 of 2018 on the file of Motor Accidents Claims Tribunal / Special Subordinate Court No.II, Salem, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the claimant is permitted to withdraw the amount now determined by this Court along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal.

(v) The claimant is directed to pay the Court fee for the enhanced compensation amount, if required.

(vi) The Tribunal below shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimant.

21.11.2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

To

1. The Special Subordinate Court No.II (to deal with MCOP cases), Salem.



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R.KALAIMATHI, J.

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