



C.M.A.No.2878 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 04.03.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.2878 of 2022

Murugan

... Appellant

VS.

1.Sreerangayee

2.M/s. National Insurance Company Limited,
Branch Office No.1,
Rajaji Road,
Kumarasampatty,
Salem – 7.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation awarded in the Order dated 14.08.2021 made in M.C.O.P.No.735 of 2016 on the file of the MACT/Special Sub Court No.1 at Salem with interest and cost by allowing this civil miscellaneous appeal.

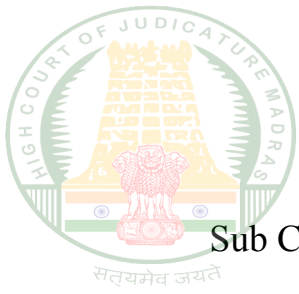
For Appellant : Mr.R.Jayaprakash

For R2 : M/s.R.Sree Vidhya

For R1 : Notice Dispensed With

J U D G M E N T

The injured/claimant has come before this Court seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal/Special



C.M.A.No.2878 of 2022

Sub Court No.1, Salem in M.C.O.P.No.735 of 2016, dated 14.08.2021.

WEB COPY

2. It is the case of the appellant/claimant that on 15.12.2015, he was driving a TATA ACE Vehicle from Salem to Harur. When he was nearing Alamelupuram Bridge, the Mini Lorry belongs to the 1st respondent insured with the 2nd respondent came in a rash and negligent manner in the opposite side and dashed against the vehicle driven by the claimant. As a result of which, the claimant suffered grievous injuries and he was in hospital for 20 days and undergone surgery. Therefore, a claim petition was filed seeking compensation of Rs.12,00,000/-.

3. The 1st respondent remained *exparte* before the Tribunal and the 2nd respondent alone filed counter denying the manner of accident as described in the claim petition. It was the case of the 2nd respondent/Insurance Company that accident had occurred only due to the rash and negligent driving of the claimant.

4. Before the Tribunal, the claimant was examined as PW.1 and a



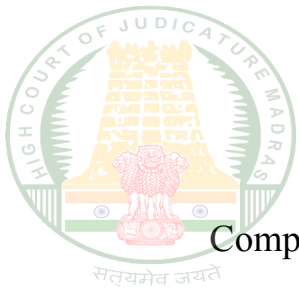
C.M.A.No.2878 of 2022

Doctor, who was also Member of the Medical Board which examined the claimant was examined as PW.2. On behalf of the claimant, 23 documents were marked as Exs.P1 to P23. On behalf of the 2nd respondent/Insurance Company, no oral and documentary evidence was let in. The Disability Certificate issued by the Medical Board was marked as Ex.C1.

5. The Tribunal based on the evidence available on record came to the conclusion that accident had occurred only due to the negligence of the driver of the vehicle belongs to the 1st respondent and quantified the compensation at Rs.8,65,213/-. Not satisfied with the quantum of compensation fixed by the Tribunal, the claimant has come before this Court.

6. The learned counsel appearing for the appellant/claimant would submit that accident had occurred in the year 2015 and a sum of Rs.7,500/- fixed by the Tribunal as notional income is very much on lower side and the same requires enhancement.

7. The learned counsel appearing for the 2nd respondent/Insurance



C.M.A.No.2878 of 2022

WEB COPY

Company would submit that claimant has not produced any documentary evidence to prove the avocation of the injured and hence, the Tribunal was justified in fixing the notional income at Rs.7,500/- per month.

8. In the claim petition, it was averred by the claimant that he was employed as LMV Driver and earning a sum of Rs.18,000/- per month. The driving licence of the claimant was marked as Ex.P13 to prove that he was LMV Driver. Though no documentary proof was filed to prove the monthly income of the claimant, this Court taking into consideration the facts and circumstances of the case can fix the notional income. In the case on hand, the accident had occurred on 15.12.2015. The avocation of the claimant as LMV Driver was also proved by production of driving licence. Therefore, taking into consideration the date of accident and the cost of living, this Court proceeds to fix Rs.15,000/- per month as notional income of the claimant.

9. The age of the claimant was fixed as 42 years based on Ex.P13- Driving Licence and Aadhar Card marked as Ex.P17. Therefore, the claimant is entitled to 25% enhancement towards future prospects and the



C.M.A.No.2878 of 2022

applicable multiplier is 14. The Medical Board issued the Disability Certificate-Ex.C1, fixing the disability at 28%. The Doctor, who was Member of Medical Board that examined claimant deposed as PW.2. He, in his evidence, clearly deposed that due to the fracture injury suffered by the claimant, he would find it very difficult to drive the motor vehicles.

10. In view of the evidence by the Member of the Medical Board that claimant may find it difficult to drive the vehicles in future due to the permanent disability suffered by him, this Court proceeds to adopt multiplier method to award compensation. Accordingly, the claimant is entitled to Rs.8,82,000/- under the head permanent disability ($\text{Rs.15,000} \times 1.25 \times 12 \times 14 \times 28/100 = \text{Rs.8,82,000/-}$).

11. The claimant was in hospital for nearly 20 days. Therefore, the amount awarded by the Tribunal under various other heads like pain and sufferings, medical expenses, transportation expenses, nutrition expenses, attender charges and loss of amenities etc., are confirmed. The amount of Rs.1,000/- awarded by the Tribunal under the head damage to the clothes is set aside. Accordingly, the claimant is entitled to Rs.13,05,213/-. The award

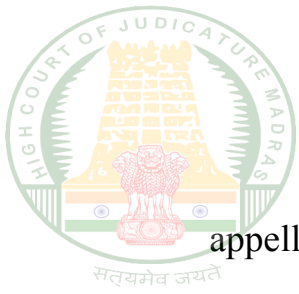


C.M.A.No.2878 of 2022

passed by the Tribunal is modified as follows:-

Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court	Remarks
1.	Pain and Sufferings	Rs.30,000/-	Rs.30,000/-	Confirmed
2.	Medical Expenses	Rs.3,13,213/-	Rs.3,13,213/-	Confirmed
3.	Transportation Expenses	Rs.20,000/-	Rs.20,000/-	Confirmed
4.	Nutrition Expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
5.	Attender Charges	Rs.15,000/-	Rs.15,000/-	Confirmed
6.	Damage to the clothes	Rs.1,000/-	-	Set aside
7.	Loss of Amenities	Rs.30,000/-	Rs.30,000/-	Confirmed
8.	Loss of Permanent Disability	Rs.4,41,000/-	Rs.8,82,000/-	Enhanced
Total		Rs.8,65,213/-	Rs.13,05,213/-	Enhanced to Rs.4,40,000/-

12. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to Rs.13,05,213/- from Rs.8,65,213/-. The 2nd respondent/Insurance Company is directed to deposit the enhanced award amount of Rs.13,05,213/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, after deducting the amount already deposited, if any, to the credit of M.C.O.P.No.735 of 2016 on the file of the Motor Accident Claims Tribunal/Special Sub Court No.1, Salem, within a period of six weeks from the date of receipt of copy of this judgment. On such deposit, the



C.M.A.No.2878 of 2022

appellant/claimant is entitled to withdraw the award amount by making formal application. The appellant is directed to pay additional applicable court fee. It is made clear that the claimant is not entitled to claim any interest for the delay period of 118 days as per the order passed in condone delay petition in C.M.P.No.16768 of 2022, dated 28.11.2022.

13. With the above direction, the Civil Miscellaneous Appeal is allowed. No costs.

04.03.2025

Index :Yes / No
Speaking order :Yes / No
Neutral Citation :Yes / No
dm

To

1.The Motor Accident Claims Tribunal/Special Sub Court No.1, Salem.

2.M/s. National Insurance Company Limited,
Branch Office No.1, Rajaji Road,
Kumarasampatty, Salem – 7.

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



WEB COPY



C.M.A.No.2878 of 2022

S.SOUNTHAR, J.

dm

C.M.A.No.2878 of 2022

04.03.2025