



C.M.A.No.3526 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

C.M.A.No.3526 of 2024

and

C.M.P.No.29908 of 2024

The Assistant Engineer
Highways Department,
Thuimangalam Taluk and District.

...Appellant

Vs.

Balamurugan

...Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 22.12.2023 made in M.C.O.P.No.184 of 2019 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Perambalur.

For Appellant : Mr.D.Gopal
Govt.Advocate (C.S.)

For Respondent : Mr.S.P.Yuvaraj

JUDGMENT

The State filed the appeal challenging the quantum of compensation awarded by the Tribunal.



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2.It is the case of the claimant that, on 21.02.2019, petitioner was riding his two wheeler bearing Reg.No.TN-46-V-7689 from Ariyalur to Perambalur Road. When the petitioner nearing Eraiyur diversion road from east to west at about 7.30 p.m., jeep bearing Reg.No.TN-55-G-226 owned by the respondent came in the opposite direction in a rash and negligent manner and dashed against the petitioner's two wheeler. Due to the said accident, petitioner suffered fracture on his right leg and injuries all over the body. In this regard, Maruvathur Police registered a criminal case in Crime No.47 of 2019 against the driver of the appellant's vehicle. The appellant is the owner of the offending vehicle. Thereby, the appellant filed a claim petition in MCOP.No.184 of 2019 claiming a compensation of Rs.20,00,000/-.

3. The learned counsel for the appellant would submit that on 21.12.2019, the respondent/claimant riding his two wheeler bearing Reg.No.TN-46-V-7689 in Ariyalur to Perambalur road. When he was nearing Eraiyur diversion road from east to west at about 7.30 p.m., the Jeep bearing Reg.No.TN-55-G-226 came from opposite direction in a rash and negligent manner and dashed against the two wheeler of the



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petitioner. Due to the accident, the claimant suffered injuries all over his body. Therefore, the claimant filed a claim petition claiming compensation of Rs.20,00,000/-.

4. Before the Tribunal, the petitioner himself was examined as PW1 and 11 documents were marked. The respondent examined Mr.Parthaarathy (Assistant Divisional Engineer, National Highways Department, Trichy) as RW1 and no documents was marked. The disability certificate of the Medical Board was marked as Ex.C1.

5. After trial, the Tribunal awarded compensation for an amount of Rs.3,62,164/- to the claimant. Challenging the same, the present appeal has been filed.

6. This Court has carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.



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7. The factum and manner of the accident is not disputed by the parties and therefore, this Court is not venturing into the same.

8. Insofar as the quantum of compensation fixed by the tribunal is concerned, the accident is of the year 2019. In respect of quantum of compensation, Medical Board assessed the disability only at 3% Rs.15,000/- was awarded and 1,00,000/- was awarded for pain and sufferings. The respondent/claimant did not sustain any functional disability due to the injuries, ought not to have granted excess compensation in various heads and therefore, appellant prayed for to set aside the award of the Tribunal and allow this appeal.

9. The learned counsel for the respondent submitted that the respondent/claimant not proved the negligence. The respondent himself examined as PW1 and narrated the incident. However, to disprove the same, no independent witness was examined by the appellant/State and admittedly FIR was registered as against the appellant. FIR was marked as Ex.P1. The learned counsel for the respondent/claimant submitted that the award passed by the Tribunal is reasonable and the same need not be



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interfered with.

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10. Insofar as the compensation awarded under the other heads are concerned, a sum of Rs.1,00,000/- has been awarded under the head Loss of pain and sufferings, which is on the higher side and thereby, the same is reduced to Rs.50,000/- and a sum of Rs.10,000/- is awarded under the head of Nutrition Charges, the same is enhanced to Rs.20,000/- and Attender charges a sum of Rs.17,500/- was granted, the same is on the higher side. Therefore, it has to be reduced to Rs.10,000/-. Loss of income during treatment period, a sum of Rs.60,000/- was granted, which is also on the higher side, therefore, the same is reduced to Rs.20,000/-. Amount granted under the heads of Discomfort, frustration and loss of social enjoyment, the is hereby rejected. All other aspects, the award passed by the Tribunal are reasonable, therefore, no need to interfere with the same.

11. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-



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<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Modified Award Amount (Rs.)</i>
For Disability	15,000/-	15,000/-
Pain and Sufferings	1,00,000/-	50,000/-
Transport Charges	10,000/-	10,000/-
Nutrition Charges	10,000/-	20,000/-
Attendant Charges	17,500/-	10,000/-
Loss of Income during Treatment	60,000/-	20,000/-
Discomfort, frustration and loss of social enjoyment	25,000/-	-
Reimbursement of medical bills	1,24,664/-	1,24,664/-
Total	3,62,164/-	2,49,664/-

12. Accordingly, this Civil Miscellaneous Appeal stands allowed in part and the impugned award passed by the Tribunal in M.C.O.P.No.184 of 2019 is modified by reducing the compensation amount from **Rs.3,62,164/-** to **Rs.2,49,664/-**. The Appellant is directed to deposit the said amount to the credit of M.C.O.P.No.184 of 2019 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from



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the date of receipt of a copy of this judgment. The claimant is entitled to get the award amount with proportionate interest and costs. On such deposit being made, the Tribunal is directed to transfer the compensation amount to the respondent/claimant directly to the bank account through RTGS within a period of two (2) weeks thereafter, upon production of proof with regard to payment of Court fee on the compensation. It is underscored that the respondent/claimant is not entitled to any interest for the default period, if any. No costs. Consequently, connected miscellaneous petition is closed.

09.01.2025

ssn

NCC : Yes/No

Index : Yes/No

Speaking Order : Yes/No

To:

1. The Motor Accident Claims Tribunal,
Subordinate Court, Perambalur.
2. The Section Officer,
V.R. Section, High Court, Madras.



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M.DHANDAPANI, J.,

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