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CMA No. 1997 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-08-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1997 of 2025

A.Victor Rajan

Appellant

Vs

1. N. Vinoth Kumar

2.The United India Insurance Company
Limited

Sillingi Building, 4th Floor, No.134,
Greens Road, Chennai - 006.

Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicle Act, praying to allow this CMA by enhancing the compensation awarded in the Judgment and Decree dated 07.02.2025 passed in MCOP No.1807 of 2021, on the file of the Motor Accident Claims Tribunal, Chennai (II Special Court, Small Causes Court, Chennai)

For Appellant: Mr.K.Balaji

For Respondents: Mr.K.Swaminathan For R2
R1- set exparte



JUDGMENT

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The appellant/petitioner not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.1807 of 2021, dated 16.02.2021 has preferred this appeal seeking for enhancement of compensation.

2.The case of the appellant is that on 01.02.2021 at about 12.30 hours, when the petitioner was riding his two wheeler bearing Regn. No. TN-07 BS-8392 proceeding at Anna Salai, near Anna Flyover south side, Teynampet, Chennai, at that time, the rider of another two wheeler bearing Regn. No. TN-85 P-0960 driven it in a rash and negligent manner, dashed on the petitioner and caused an accident. Due to which, the petitioner fell down and sustained grievous injuries, for which he underwent treatment in the hospital. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation of Rs.12,00,000/-.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the rider of the 1st respondent. Having come to such a conclusion, the



Tribunal fixed the total compensation payable at Rs.1,24,321/- under various heads as follows:

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S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Medical expenses	19,321
2.	Transportation	10,000
3.	Extra nourishment	10,000
4.	Attender charges	10,000
5.	Disability	15,000
6.	Loss of income	45,000
7.	Pain and sufferings	15,000
	Total	1,24,321

4.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

5.The appellant/petitioner not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal before this Court seeking for enhancement of compensation.

6. The learned counsel for appellant would submit that the disability sustained by the petitioner has not been properly appreciated by the tribunal and as per Ex.C1, he has sustained partial and permanent disability, but the tribunal



has granted only a sum of Rs.3000/- per percentage of disability without taking

note of the fact that the accident was happened in the year 2021. Hence, he

prayed to enhance the compensation.

7. The learned counsel for 2nd respondent would submit that he has not sustained any amputation and permanent disability. Hence, the tribunal has rightly awarded compensation for the disability sustained by the appellant, which needs no interference of this court.

8. Heard and considered rival submissions made by both learned counsel for appellant as well as 2nd respondent and perused materials available on record.

9. Considering both side submissions, the fact reveals that admittedly, due to the said accident, he had sustained type-2 open fracture both bone left leg and he has also sustained multiple injuries all over the body and undergone surgery as well as a plate was implanted in his left leg. However, the medical board suggested only 5% of partial disability and the tribunal awarded a sum of Rs.3000/- per percentage of disability, but the fact reveals that the accident was happened in the year 2021. Therefore, considering his partial disability and



considering his age of 48 years, this Court is inclined to enhance the sum awarded towards the percentage of disability from Rs.3000/- to Rs.9000/-.

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10. Furthermore, on perusal of award, the fact reveals that the appellant is working as a Project Manager in M/s.Clear Water Pools, Chennai, thereby he had earned a sum of Rs.35,000/- and he was aged about 48 years and the accident was happened in the year 2021. Therefore, considering the cost of living at that time as well as considering his age and also there was an implantation of plate in his left leg, this Court is inclined to enhance his notional monthly income from Rs.15,000/- to Rs.18,000/- per month.

11. Considering the fact that he was admitted in hospital for 9 days and a surgery was conducted and a plate was also implanted, the learned Tribunal fixed only three months for loss of income, but the learned counsel for appellant argues that due to the injuries sustained, he was not able to move outside and nearly about six months, he was not able to attend his avocation. Hence, six months period is to be taken for loss of income. By relying the discharge summary, the learned counsel for respondent would submit that only 9 days, he is in hospital, but however on seeing the grievous injury and a surgery was



conducted and also a plate was also implanted in his left leg, this Court is inclined to modify the period for loss of income as four months.

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12. As he had undergone surgery and also there was an implantation of plate in his left leg, he had incurred huge expenses towards transportation during the period of treatment and he was also in need of more nourishment. Hence, this Court is inclined to enhance the sum awarded towards transportation from Rs.10,000/- to Rs.15,000/- and also the sum awarded towards extra nourishment from Rs.10,000/- to Rs.20,000/-. Since he had suffered with fracture in both bone left leg and also multiple injuries all over the body, he had undergone surgery as well as implantation and he was under treatment for the period of four months, he had sustained severe pain and sufferings. Therefore this Court, is inclined to enhance the sum awarded towards pain an sufferings from Rs.15,000/- to Rs.30,000/-. Considering the nature of injury and the period of treatment and also a surgery was conducted as well as a plate was implanted in his left leg, this Court is inclined to award a sum under the head of loss of amenities as Rs.25,000/-. The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.



13. In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:

S.No	Compensation awarded under the head	Amount awarded by the tribunal (in Rs.)	Amount (in Rs.)	Amount confirmed or granted or enhanced
1.	Medical expenses	19,321	19,321	confirmed
2.	Transportation	10,000	15,000	enhanced
3.	Extra nourishment	10,000	20,000	enhanced
4.	Attender charges	10,000	10,000	confirmed
5.	Disability (Rs.9000/- x 5%)	15,000	45,000	enhanced
6.	Loss of income (Rs.18,000/- x 4)	45,000	72,000	enhanced
7.	Pain and sufferings	15,000	30,000	enhanced
7.	Loss of amenities	nil	25,000	awarded
	Total	1,24,321	2,36,321	
	Rounded off to	1,24,500	2,36,330	

14. The compensation awarded by the tribunal at Rs.1,24,500/- is enhanced to Rs.2,36,330/-. The 2nd respondent insurance company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of eight weeks from the date of receipt of copy of this judgment.

On such deposit, the appellant is permitted to withdraw the enhanced award



amount now determined by this court along with interest and costs, less the amount if any, already withdrawn. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

15. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

06-08-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Motor Accident Claims Tribunal, II Special Court, Small Causes Court, Chennai.

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



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T.V.THAMILSELVI J.

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