



C.M.A.No.207 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.207 of 2025

Padmanaban

... Appellant / Petitioner

Vs.

1.Ponnusamy

2.The New India Assurance Company Limited,
Sethu Krishna Trading Centre,
2nd Floor, No.133/31-A,
Tiruchy Main Road, Gugai,
Salem-636 006.

... Respondents / Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 25.04.2022 made in M.C.O.P.No.498 of 2020 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Court No.2, Salem.



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For Appellant : Mr.M.Sivakumar
For Respondents : Mr.J.Chandran for R2

J U D G M E N T

Aggrieved by the compensation awarded by the Tribunal in M.C.O.P.No.498 of 2020 filed by the claimant, the appellant/claimant has come before this Court challenging the same by filing the present civil miscellaneous appeal.

2. It is the case of the claimant that, on 18.05.2019, at about 12.15., when the claimant was going to Pailnadu Kallur Village regarding his work in a motorcycle, a tipper lorry which came from the opposite direction in a rash and negligent manner hit against the claimant's vehicle, due to which, he sustained grievous injuries. Under these circumstances, the claim petition came to be filed by the claimant seeking compensation before the Tribunal against the respondents who are the owner and the insurer of the lorry.



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3. Before the Tribunal, on the side of the claimant, P.W.1 was examined and Exs.P1 to P18 were marked. On the side of the respondents, no witness was examined and no document was marked. The Disability Certificate was marked as Ex.C1. The Tribunal, after analyzing the oral and documentary evidence available on record, awarded a compensation of Rs.3,35,274/- and directed the second respondent / Insurance Company to pay the same to the appellant / claimant.

4. The learned counsel appearing for the claimant /appellant submitted that the claimant was aged about 57 years at the time of accident, and the Medical Board has assessed the permanent disability as 30%, however, the Tribunal has taken only a sum of Rs.5,000/- per percentage and the other heads awarded by the Tribunal are also on the lower side. Hence, he prays for enhancement of compensation.

5. The first respondent remained ex-parte before the Tribunal.



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6. Per contra, the learned counsel appearing for the second respondent / Insurance Company submitted that, the Tribunal taking into consideration all the relevant documents has rightly fixed the compensation, which does not require any interference. However, a sum of Rs.30,000/- awarded towards loss of estate is not reasonable and hence, the same may be deleted.

7. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

8. The factum of the accident is not disputed by the parties and so also the liability. Therefore, this Court is not entering into the said aspect. The only grievance of the claimant is with regard to the quantum of compensation awarded.



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9. The Medical Board, on assessment of the injuries sustained by the claimant, came to a conclusion that the appellant has suffered 30% permanent disability. The Tribunal has chosen to adopt the percentage method and has calculated per percentage of disability at the rate of Rs.5,000/-. The accident had taken place in the year 2019. Hence, considering the increase in the cost of living, this Court is inclined to enhance the per percentage of disability at the rate of Rs.7,000/-. Accordingly, the compensation awarded under the head 'disability' is enhanced to Rs.2,10,000/- [7000 * 30]. Insofar as compensation awarded under the heads 'pain and sufferings' and 'extra nourishment' is concerned, the same is on the lower side and the same is enhanced to Rs.60,000/- and Rs.30,000/- respectively. Further, this Court finds that there is no ground to award a sum of Rs.30,000/- towards loss of estate and the same is hereby set aside.



10. Considering the age and the nature of injuries sustained by the appellant, this Court finds that the compensation awarded under the heads 'Medical Expenses', 'Future Medical Expenses', 'Transportation Charges', 'Attender Charges' and 'damages to clothes' are just and reasonable and does not require any interference.

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

<i>S.No</i>	<i>Head of Compensation</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
1	Loss of Disability (30*Rs.7,000/-)	Rs.1,50,000/-	Rs.2,10,000/-
2	Pain and Sufferings	Rs.30,000/-	Rs.60,000/-
3	Loss of Estate	Rs.30,000/-	-
4.	Medical Expenses	Rs.64,274/-	Rs.64,274/-
5	Future Medical Expenses	-	-



<i>S.No</i>	<i>Head of Compensation</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
6	Transportation Charges	Rs.20,000/-	Rs.20,000/-
7	Extra Nourishment	Rs.20,000/-	Rs.30,000/-
8	Attender Charges	Rs.20,000/-	Rs.20,000/-
9	Damage to Clothing	Rs.1,000/-	Rs.1,000/-
	Total	Rs.3,35,274/-	Rs.4,05,274/-

12. In the result, this civil miscellaneous appeal is allowed in part and the compensation awarded by the Tribunal at Rs.3,35,274/- is hereby enhanced to Rs.4,05,274/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. The second respondent / Insurance Company is directed to deposit the entire award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.498 of 2020 on the file of the Motor Accidents Claims Tribunal, Special Sub Court No.2, Salem. On such deposit, the appellant is permitted to withdraw



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the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn fixed by the Tribunal by making proper application before the Tribunal. No costs.

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NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No
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To

1. The Motor Accidents Claims Tribunal,
Special Sub Court No.2, Salem
2. The Section Officer,
V.R. Section,
High Court, Chennai.



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This matter is listed today under the caption "for being mentioned" at the instance of the Registry.

2. It is brought to the notice of this Court by the Registry that, the interest for the default period which has not been granted, vide order of this Court dated 02.01.2025 has not been incorporated in the operative portion of the judgment dated 29.01.2025 in and by which the Civil Miscellaneous Appeal was partly allowed with a direction to the second respondent to deposit the entire award amount now determined by this Court with appropriate interest before the tribunal and therefore, necessary clarification is sought.

3. This Court perused the judgment dated 29.01.2025 and finds that there is no mentioning about the interest for the default period



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in the operative portion of the judgment dated 29.01.2025, though it was not awarded vide order dated 02.01.2025. Similarly, the words “fixed by the Tribunal” in the penultimate line have been wrongly added.

4. In view of the same, Paragraph 12 of the judgment dated 29.01.2025 is recalled and shall stand replaced with the following paragraph:

“12. In the result, this civil miscellaneous appeal is allowed in part and the compensation awarded by the Tribunal at Rs.3,35,274/- is hereby enhanced to Rs.4,05,274/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. However, it is made clear that the appellant/claimant is not entitled for the interest for the default period. The second respondent / Insurance Company is directed to deposit the entire award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a



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period of four weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.498 of 2020 on the file of the Motor Accidents Claims Tribunal, Special Sub Court No.2, Salem. On such deposit, the appellant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn by making proper application before the Tribunal. No costs.

5. Registry is directed to carry out the necessary correction as aforesaid in the judgment dated 29.01.2025 and issue fresh copy of the order to the learned counsel for the parties.

25.02.2025

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