



CMA.No.3708 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2025

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA.No.3708 of 2021

R.P.David Jawahar

... Appellant

Vs.

1.Panayam Cements and Mineral Industries Limited,
Rep by its Manager SPY Reddy,
Industrial Estate,
Bommalasatram,
Nandyal Taluk,
Kurnool District,
Andhra Pradesh.

2.The Branch Manager,
New India Assurance Company Limited,
Branch Office, D.No.25/692B,
1st Floor, Sri Rama Sai Enclave,
Plot No.104, TTD Road,
Srinivasa Nagar, Nandyal Taluk,
Kurnool District, Andhra Pradesh.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, challenging the judgment and decree dated 05.04.2021 made in MCOP.No.837 of 2018 on the file of the Motor Accident Claims Tribunal, Special Subordinate Court, Motor Accident Claims Cases, Krishnagiri.



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For Appellant : Mr.S.P.Yuaraj

For Respondents : M/s.R.Rajesh for R2
R1-Dismitted vide
C/o dated 26.04.2024

J U D G M E N T

The appellant/injured claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal Special Subordinate Court, Krishnagiri in MCOP.No.837 of 2018, dated 05.04.2021, has come by way of this Civil Miscellaneous Appeal.

2. It is not in dispute that the claimant got injured on 12.03.2018 in a road accident. Both the counsel appearing for the appellant and the respondents have not advanced arguments on the aspects of negligence and liability. Therefore, the facts necessary for deciding negligence and liability have not been discussed in this judgment. The present appeal is confined to the quantum of compensation.

3. Heard the learned counsel for appellant/claimant and the learned counsel for second respondent/Insurance Company.



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4. The learned counsel appearing for the appellant/claimant submits that due to the accident, the petitioner suffered fracture injury in the right hand. Therefore, the Medical Board assessed the disability at 85%. However, the Tribunal reduced it to 50% without any basis. The learned counsel further submitted that the notional income fixed by the Tribunal at Rs.8,500/- is very much on the lower side.

5. The learned counsel appearing for the 2nd respondent/Insurance Company would submit that the disability suffered by the claimant and the loss of earning capacity are entirely different and having regard to the facts and circumstances of the case, the Tribunal rightly fixed the loss of earning capacity at 50%. The learned counsel further submitted that the claimant failed to produce any documents to prove his income and hence the amount of Rs.8,500/- fixed by the Tribunal as notional income is justified.

6. A perusal of Ex.C1-disability certificate issued by Medical Board would suggest that the Medical Board has given its opinion that the



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claimant suffered disability of 85%. The claimant was examined as PW.1, the Tribunal which had the opportunity to see the claimant also recorded in its order that his right hand had become totally useless. In the claim petition, it was claimed by the petitioner that he was working as Co-ordinator, Central Government Skill and Development Project. The claimant has not produced any documents to prove the nature of his job and to prove of responsibility of his job. Having regard to the nomenclature of the petitioner's employment as mentioned in the claim petition, the Tribunal was justified in assessing the loss of earning capacity at 50%. The said findings requires no interference by this Court.

7. The accident had taken place in the year 2018. Though the claimant failed to produce any document to prove his income, he is entitled to fixation of notional income, as per the acceptable parameters. In view of the fact that the accident had occurred in the year 2018, this Court is inclined to fix the notional income of the claimant at Rs.16,000/- per annum. The claimant is also entitled to 40% enhancement towards future prospects (Rs.16,000+6400). Having regard to the age of the claimant i.e.,



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29 years, the applicable multiplier would be 17. Therefore, the claimant is entitled to a sum of Rs.22,84,800/- under the head of earning capacity (Rs.22,400*12*17*50/100).

8. Having granted compensation under the head loss of earning capacity, the Tribunal ought not have awarded compensation under the head permanent disability on percentage basis. Therefore, a sum of Rs.4,25,000/- awarded by the Tribunal under the head permanent disability is set aside. The amount of Rs.12,13,800/- awarded under the head loss of earning capacity is enhanced to Rs.22,84,800/-. The other amount awarded by the Tribunal under various heads are confirmed.

9. In the light of the above discussion, this Court modifies the compensation in the following manner:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)
1.	Loss of earning capacity	12,13,800/-	22,84,800/-



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2.	Medical expenses	3,06,832/-	3,06,832/-
3.	Transport expenses	10,000/-	10,000/-
4.	Nutritious and Attender Charges	15,000/-	15,000/-
5.	Pain and Suffering	68,000/-	68,000/-
6.	Social amenities	68,000/-	68,000/-
7.	Damages to Clothes	1,000/-	1,000/-
8.	85% disability at Rs.5000/- per percentage	4,25,000/-	-
	Total	21,07,632/-	27,53,632/-

10. Therefore, the amount of compensation awarded by the Tribunal is enhanced to Rs.27,53,632/- as against a sum of Rs.21,07,632/-. The claimant is entitled to interest at the rate of 7.5% on the enhanced award. The respondents are directed to deposit the enhanced amount with interest within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.837 of 2018 on the file of the Motor Accident Claims Tribunal, Special Subordinate Court, Motor Accident Claims Cases, Krishnagiri. 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 formal application before the Tribunal.



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No costs.

05.02.2025

Index : Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To

1.Motor Accident Claims Cases,
Special Subordinate Court,
Krishnagiri.

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



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S.SOUNTHAR, J.

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