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C.M.A.No.3056 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.3056 of 2024

Vijayakumar

...Appellant

Vs.

1.V.Saravanan

2.The Branch Manager,
United India Insurance Company Limited,
No.1/7, Wakab Nagar, Opp. to District Court,
Rayakottai Road, Krishnagiri-635 001.

...Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, challenging the judgment and decree dated 10.10.2022 made in M.C.O.P.No.174 of 2021 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Krishnagiri.

For Appellant : Ms.L.Manisha

For Respondents : Mr.J.Chandran, for R2
R1 - Exparte

JUDGMENT



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Challenging the judgment and decree dated 10.10.2022 made in M.C.O.P.No.174 of 2021 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Krishnagiri, the claimants have come up with this appeal.

2. It is the case of the claimant that, on 30.09.2016, the petitioner was travelling as pillion in two wheeler bearing Reg.No.TN-26-W-5965 in Hosur-Krishnagiri NH Road, near Konneripalli. At that time, the driver of the tri-wheeler bearing Reg.No.TN-24-E-2347 driven in a rash and negligent manner dashed on the petitioner's vehicle. Due to the said impact, the petitioner got grievous injuries all over his body. The petitioner was taken to Government Hospital at Hosur and later he was taken treatment at Government Hospital, Krishnagiri. The petitioner is aged 45 years and was an agricultural coolie and earning Rs.30,000/- p.m. Due to the said accident, the petitioner not able to do his work as before. Hence, he filed a claim petition claiming compensation of Rs.5,00,000/- before the Tribunal.

3. Before the Tribunal, the claimant examined himself as P.W.1



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and marked four documents as Exs.P1 to P4 and on the side of respondents, no witness was examined and no document was marked.

The Medical Board Report was examined as Ex.C1.

4. After trial, though the Tribunal, on appreciation of oral and documentary evidence came to a conclusion that the accident had taken place solely due to the negligence on the part of the 1st respondent, however, awarded a meagre amount of Rs.2,85,000/- towards compensation for the claimant.

5. Being not satisfied with the quantum of compensation awarded by the Tribunal, the appellant/claimant has come up with this appeal seeking enhancement of compensation.

6. Learned counsel for the appellant submitted that the above said accident happened solely due to the negligence on the part of the 1st respondent, on 30.09.2016, the petitioner was travelling as pillion in two wheeler bearing Reg.No.TN-26-W-5965 in Hosur-Krishnagiri NH Road, near Konneripalli. At that time, the driver of the tri-wheeler bearing



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Reg.No.TN-24-E-2347 driven in a rash and negligent manner dashed on the petitioner's vehicle. Due to the said impact, the petitioner got grievous injuries all over his body. The petitioner was taken to Government Hospital at Hosur and later he was taken treatment at Government Hospital, Krishnagiri. The petitioner is aged 45 years and was an agricultural coolie and earning Rs.30,000/- p.m., the accident is of the year 2016, the Tribunal fixed Rs.4,500/- per percentage is very low. Further, the compensation awarded under the head of pain and sufferings the Tribunal awarded only Rs.30,000/-, which is on the lower side, the same has to be enhanced. Further, the amount awarded towards Additional Nourishment also may be enhanced. Accordingly, he prayed for appropriate orders.

7. Per contra, the learned counsel appearing on behalf of the 2nd respondent-Insurance Company contended that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.



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

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

10. Insofar as the quantum of compensation fixed by the tribunal is concerned, the accident is of the year 2016 and at the time of accident, the deceased was aged about 45 years and he was an agricultural coolie, suffered 40% partial permanent disability and the Tribunal has fixed Rs.4,500/- per percentage is on the lower side. The same has to be enhanced to Rs.6,000/- per percentage [$\text{Rs.6,000/-} \times 40 = \text{Rs.2,40,000/-}$].

11. Insofar as the compensation awarded under the other heads are concerned, a sum of Rs.30,000/- has been awarded under the head pain and sufferings which is on the lower side and thereby, the same is enhanced to Rs.60,000/- and Further, a sum of Rs.10,000/- is awarded under the head Additional Nourishment, which is on the lower side and



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thereby, the same is enhanced to Rs.20,000/-. Further, loss of amenities is hereby rejected. In all other aspects, the amount awarded by the Tribunal appears to be reasonable, therefore, needs no interference.

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

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Modified Award Amount (Rs.)</i>
Disability	1,80,000/-	2,40,000/-
Medical Expenses	NIL	NIL
Future Medical Expenses	NIL	NIL
Loss of Income	24,000/-	24,000/-
Pain and Sufferings	30,000/-	60,000/-
Transportation Expenses	10,000/-	10,000/-
Additional Nourishment	10,000/-	20,000/-
Damages to the clothes	1,000/-	1,000/-
Attender Charges	10,000/-	10,000/-
Loss of Amenities	20,000/-	NIL
Total	2,85,000/-	3,65,000/-



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13. Accordingly, this Civil Miscellaneous Appeal stands allowed in part and the impugned award passed by the Tribunal in M.C.O.P.No.174 of 2021 is modified by enhancing the compensation amount from Rs.2,85,000/- to Rs.3,65,000/-. The 2nd respondent Insurance company is directed to deposit the said amount to the credit of M.C.O.P.No.174 of 2021 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 the date of receipt of a copy of this judgment. The appellant 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 directly to the bank account of the appellant through RTGS within a period of two (2) weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced compensation. It is underscored that the appellants are not entitled to any interest for the default period, if any. No costs.

09.01.2025

ssn



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

To:

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

M.DHANDAPANI, J.

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