



C.M.A.No.3114 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2025

CORAM

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

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Malini ...Appellant

Vs.

1.Giridharan

2.Sengottaiyan

3.M/s.United India Insurance Co.Ltd.,
Represented by its Divisional Office-II (HUB),
104-A, Peramanoor Main Road,
Salem-636 007.

4.K.Selvaraj ...Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, challenging the order dated 21.12.2023 made in M.C.O.P.No.1307 of 2023 on the file of the Motor Accident Claims Tribunal, Special Subordinate Court No.1, Salem.

For Appellants : Ms.L.Manisha

For Respondents : Mr.J.Chandran, for R3
R1 & R2 Dispensed with
vide order dated 23.10.2024



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JUDGMENT

Challenging the judgment and decree dated 21.12.2023 made in M.C.O.P.No.1307 of 2023 on the file of the Motor Accident Claims Tribunal, Special Subordinate Court No.1, Salem, the claimants have come up with this appeal.

2. Mr.J.Chandran, learned counsel takes notice on behalf of the 3rd respondent.

3. It is the case of the claimants that, on 23.05.2023 at about 4.50 pm., when the claimant was riding as pillion in a two wheeler bearing Regn.No.TN-10-L-3952 on Gangeyam-Karur road, near Surya Hotel center median divider, at that time, as the Goods Carrier bearing Reg.No.TN-34-U-3516 owned by the 2nd respondent insured with the 3rd respondent, the 1st respondent/driver of the said Goods Carrier, drove the vehicle in a rash and negligent manner and hit upon the petitioner from behind, and thereby, due to which, the claimant sustained grievous injuries. Thereby, the appellant filed a claim petition in MCOP.No.1307



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of 2023 claiming a compensation of Rs.90,00,000/-.

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Before the Tribunal, one Malini was examined as P.W.1 and marked exhibits P.1 to P.12 and no witnesses and documents were examined and marked on the side of the respondents and wound certificate was marked as Ex.C1.

5. 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.42,24,063/- towards compensation for the claimant. 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. The learned counsel for the appellant submitted that since the appeal has been awarded, no need for negligence aspect. In respect of quantum of compensation, the claims Tribunal fixed the disability at 90% since the appellant's both legs were removed below the knee and the appellant being the tailor by profession, due to loss of both legs below



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the knee, he is not in a position to do the his tailoring work as he did before, but the Tribunal has fixed Rs.12,000/- as notional income is on the lower side. Therefore, award under the head of loss of income by the Tribunal needs to be interfered with. Further, the compensation awarded under other heads are also on the lower side and the same needs to be enhanced. Accordingly, he prayed for appropriate orders.

7. Per contra, the learned counsel appearing on behalf of the 3rd 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.

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.



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10. Insofar as the quantum of compensation fixed by the tribunal is concerned, the accident is of the year 2023 and at the time of accident, the claimant was aged about 30 years and he was a tailor by profession and the Tribunal has fixed the notional monthly income at Rs.12,000/-, which is on the lower side. Applying the ratio laid down by the Hon'ble Supreme Court in the case of ***Raj Kumar v. Ajay Kumar and another*** reported in ***2010(2) TNMAC 581(SC)***, and also considering the age of the petitioner, this Court is inclined to fix the notional income of Rs.18,000/- and adding future prospects at 40%, as has been held by the Constitution Bench in the case of ***National Insurance Company Limited Vs. Pranay sethi and others*** reported in ***2017 (16) Supreme Court Cases 680***, the income per month is quantified at Rs.25,200/- and the claimant being aged about 30 years, as evidenced from the records, adopting the multiplier of 17 as fixed by the Apex Court in the case of ***Sarla Verma and Ors. v. DTC & Ors.*** reported in ***(2009) 6 SCC 121***, the loss of income to the family is arrived at Rs.25,200/- * 12 * 17 = Rs.51,40,800/-. The Tribunal fixed 90% disability then it would come to Rs.51,40,800/- -



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10% = Rs.46,26,720/-.

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11. 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 lower side and thereby, the same is enhanced to Rs.1,50,000/- and a sum of Rs.50,000/- is awarded under the head amenities, the same is to be rejected. All other aspects, the award passed by the Tribunal are reasonable, therefore, no need to interfere with the same.

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>
Loss of pain and sufferings	1,00,000/-	1,50,000/-
For Medical Expenses	8,38,583/-	8,38,583/-
For Transportation	50,000/-	50,000/-
For Extra Nourishment	50,000/-	50,000/-
For Attender Charges	50,000/-	50,000/-



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<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Modified Award Amount (Rs.)</i>
For Damages to clothes	1,000/-	1,000/-
For loss of amenities	50,000/-	-
For Loss of Income due to permanent disability	30,84,680/-	46,26,720/-
Total	42,24,063/-	57,66,303/-

13. Accordingly, this Civil Miscellaneous Appeal stands allowed in part and the impugned award passed by the Tribunal in M.C.O.P.No.1307 of 2023 is modified by enhancing the compensation amount from Rs.42,24,063/- to Rs.57,66,303/-. The 3rd respondent Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.1307 of 2023 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



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Tribunal is directed to transfer the compensation amount to the claimant/appellant 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 enhanced compensation. It is underscored that the appellant is not entitled to any interest for the default period, if any. No costs.

09.01.2025

ssn

NCC : Yes/No

Index : Yes/No

Speaking Order : Yes/No

M.DHANDAPANI, J.,

ssn

To:

1. The Motor Accident Claims Tribunal,
Special Subordinate Court No.1, Salem.
2. The Section Officer,
V.R. Section, High Court, Madras.

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