



CMA.No.759 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :09.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.759 of 2025

G.Sivakumar

... Appellant

Vs.

1.P.Nandakumar
(Set exparte before the Trial Court)

2United India Insurance Co. Ltd
Motor Third Party Claims Office,
No.134, Silling Building,
Chennai - 006.

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to set aside the decree and judgment dated 28.09.2022 passed in MCOP No.4258/2017 by the Learned IV Motor Accident Claims Tribunal at Chennai, IV Small Causes Court, Chennai and enhance the award from the amount of Rs.2,23,500/- to Rs. 7,23,500 (Rupees seven lakhs and twenty three thousands and five hundred only) as restricted prayed before this Honble Court and direct the 2nd respondent to pay the award amount along with 1st respondent jointly.

For Appellant : M/s.T.G.Ravichandran

For Respondents : Mr.J.Michael Visuvasam for R2
R1-Notice Dispensed with



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JUDGMENT

Not satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, the injured claimant has come before this Court by way of this appeal.

2. According to the claimant, on 02.02.2017, he was driving his two-wheeler in the left-hand side of the Madhavaram High Road. When he came near Udhayasuriyan Nagar, an auto belonged to the first respondent, insured with the second respondent came in a rash and negligent manner and dashed against the vehicle. Due to the accident, the claimant suffered grievous injuries and he was hospitalized. Hence, the claim petition was filed seeking compensation of Rs.10,00,000/-

3. The first respondent, owner of the offending vehicle, remained ex-parte before the Tribunal and the claim was resisted only by the insurer of the vehicle on the ground that the accident had occurred due to the negligence on the part of the claimant. The 2nd respondent contested the claim petition by denying the manner of accident as averred in the claim petition. The second respondent also stated that there was a delay in



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4. The Tribunal, based on the evidence available on record, came to the conclusion that the accident had occurred due to the negligence on the part of the driver of the auto belonged to the first respondent and insured with the second respondent. The amount payable to the claimant was quantified at Rs.2,23,500/-. Not satisfied with the quantum, the claimant has come before this court.

5. The learned counsel for the appellant as well as the second respondent have not advanced any arguments on the questions of negligence as well as liability. Hence, the facts necessary to decide those questions are not discussed in this appeal.

6. The learned counsel for the Appellant submitted that as per the Disability Certificate issued by the Medical Board, the claimant suffered 20% disability and the Tribunal committed an error in not applying



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multiplier method. The learned counsel further submitted that the amount awarded by the Tribunal under various heads like loss of income, pain and suffering, loss of amenities, etc., are on lower side.

7. The learned counsel for the Second Respondent submitted that absolutely there is no evidence available on record to suggest that the claimant suffered functional disability. Therefore, the Tribunal was justified in granting compensation by following percentage method.

8. It is seen from the discharge summary marked as Exhibit P2, the claimant suffered both bone fracture on right leg and calcaneum Navicular fracture. The competent Medical Board, which assessed the claimant, issued Exhibit C1, Disability Certificate, fixing permanent disability suffered by the claimant at 20%. However, there is no evidence available on record to suggest that the claimant suffered any functional disability. Therefore, the Tribunal rightly awarded compensation on percentage basis.



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9. The accident had taken place in the year 2017. However, the Tribunal granted only Rs.5,000/- per percentage of the disability. Having regard to the date of accident, the amount per percentage of the disability is increased to Rs.7,000/- Therefore, the claimant is entitled to Rs. 1,40,000/-under the head disability(Rs.7,000 x 20%).

10. It is the case of the claimant that he was a Carpenter and due to the accident he was immobilized and prevented from attending his work. Having regard to the fact that the claimant suffered injury on both the bones of his right leg, this Court feels that it would be appropriate to grant loss of income for six months period. Having regard to the date of accident, the notional income of the claimant is fixed at Rs.15,000/- and hence, the claimant is entitled to Rs.90,000/- under the head loss of income (15,000 x 6). Since this court has not adopted multiplier method while awarding compensation for the 20% disability suffered by the claimant, it is inclined to fix compensation under the heads pain and suffering and loss of amenities liberally.



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11. The Discharge summary issued by the hospital marked as Exhibit. P2 would indicate that the claimant suffered both bone fracture in his right leg and calcaneum Navicular fracture. He also underwent surgery for internal fixation. In these circumstances, this court feels that it may not be possible for the claimant to enjoy his life as he enjoyed it earlier. Therefore, the amount of Rs.40,000/- awarded by the Tribunal under the head loss of amenities is increased to Rs.75,000/-. Likewise, the amount of Rs.25,000/- awarded by the Tribunal under the head pain and suffering is increased to Rs.50,000/-. Having regard to the nature of the injury and the period of hospitalization, the amount awarded under the heads transportation expenses is increased to Rs.20,000/- and attender charges is increased to Rs.10,000/-. Having regard to the fact that compensation is awarded under the head pain and suffering, the Tribunal ought not have awarded any amount under the head mental agony and the same is set aside. The amount awarded by the Tribunal under the heads nutritional expenses, damage to clothes are confirmed.



12. In view of the discussions made earlier, the compensation awarded by the Tribunal is modified as follows:-

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability	1,00,000/-	1,40,000/-	Enhanced
2.	Pain and Suffering	25,000/-	50,000/-	Enhanced
3.	Loss of amenities	40,000/-	75,000/-	Enhanced
4.	Nutritional expenses	10,000/-	10,000/-	Confirmed
5.	Transport expenses	5,000/-	20,000/-	Enhanced
6.	Mental Agony	15,000/-	Nil	Set aside
7.	Attender charges	7,500/-	10,000/-	Enhanced
8.	Loss of income	20,000/-	90,000/-	Enhanced
9	Damage to clothes	1,000/-	1,000/-	Confirmed
	Total	2,23,500/-	3,96,000/-	Enhanced by Rs.1,72,500/-

13. With the above modifications, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,23,500/- is enhanced to Rs.3,96,000/-.The appellant is entitled to



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interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of realization (excluding the delay period of 224 days as per order in CMP.No.23898 of 2023). The second respondent /Insurance company is directed to deposit the enhanced award amount before the Tribunal along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of copy of this Judgment. The appellant/claimant is permitted to withdraw the same along with interests and costs, less the amount if any, already withdrawn by filing a formal application before the Tribunal. No costs.

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Index: Yes/No
Internet: Yes/No
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To

1. IV Motor Accident Claims Tribunal, Chennai,
IV Small Causes Court, Chennai
2. The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

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