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CMA No. 1616 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-07-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 1616 of 2024

Arjunan

Appellant

Vs

1. V.Libin

2.United India Insurance Co. Ltd.
No.14/1-77B, Salem Main Road,
Puduchampalli, Ram Nagar Post,
Mettur Dam-636401

Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicle Act, praying to allow the above CMA and enhance the award in the order dt.10.04.2023 made in MCOP No.163/2018 on the file of the Motor Vehicle Accident Claims Tribunal/Subordinate Judge court, Sankari

For Appellant: Mr.T.S.Arthanareeswaran

For Respondents: M/s. D. Venkatachalam For R2
R1- Dispensed With



JUDGEMENT

WEB COPY The petitioner not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.163 of 2018, dated 10.04.2023 has preferred this appeal seeking for enhancement of compensation.

2.The case of the petitioner is that on 01.04.2018 at about 06.00 p.m., when the petitioner was walking as a pedestrian on the road and returning from Kukkalpatti to Idappadi in Pennakaram to Macheri main road, near Kukkalpatti, at that time, a two wheeler bearing Regn. No. TN-33-U-0777 driven by 1st respondent came on the back side in a rash and negligent manner, dashed on the petitioner and caused an accident. Due to which, the petitioner sustained injuries on segmental fracture right ulna and grievous injuries all over the body, for which he underwent treatment in the hospital. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation of Rs.15,00,000/-.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the



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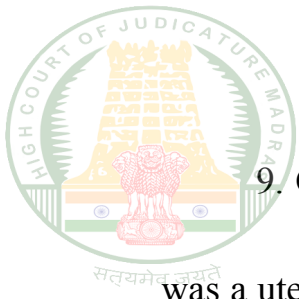
accident had taken place only due to the rash and negligent driving on the part of the rider of the 1st respondent. Having come to such a conclusion, the Tribunal fixed the disability as simple injury and awarded compensation payable at Rs.25,000/- and the said compensation was directed to be paid with interest at the rate of 7.5% per annum.

5. The petitioner not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal before this Court seeking for enhancement of compensation.

6. The learned counsel for appellant would submit that the compensation with respect to pain and sufferings during the treatment period was not considered by the tribunal. Hence, he prayed to enhance the compensation.

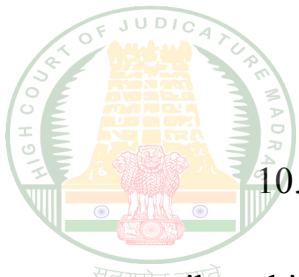
7. The learned counsel for 2nd respondent would submit that it is a case of simple injury. Hence, the tribunal has rightly awarded the compensation, since there is no medical proof.

8. Heard and considered rival submissions made by both learned counsel for appellant as well as 2nd respondent and perused materials available on record.



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9. Considering both side submissions, the fact reveals that admittedly, he was a utensil vendor and sustained segmental fracture right ulna and a plate has also been fixed. But, to that effect, no proof was produced. Hence, the tribunal has taken disability as simple injury. As per the discharge summary, he sustained grievous injuries and the accident was happened in the year 2018. Considering that, this Court is inclined to assess the disability at 10% and a sum of Rs.7000/- is to be fixed towards per percentage. Furthermore, the compensation with respect to pain and sufferings is to be considered and considering that, this court is inclined to fix a sum of Rs.25,000/- towards pain and sufferings. At the time of accident, he fell down and sustained grievous injuries, in which, his cloths as well as his utensils would have also been damaged. Hence, this Court is inclined to fix a sum of Rs.1000/- towards damages to cloths and a sum of Rs.10,000/- is also to be fixed for loss of amenities. During the period of treatment, he would have been in need of more extra nourishment. Hence, this court is inclined to fix a sum of Rs.3000/- towards nutrition expenses.



10. In the light of the above discussion, the compensation awarded by the

tribunal is modified as follows:

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Sl.No	Compensation awarded under the head	Amount awarded by the tribunal (in Rs.)	Amount (in Rs.)	Amount confirmed or granted or enhanced
1.	Functional Disability (10% x Rs.7000)		70,000	granted
2.	Pain and sufferings		25,000	granted
3.	Extra nourishment		3,000	granted
4.	Damage to cloths		1,000	granted
5.	Loss of amenities		10,000	granted
	Total compensation awarded	25,000	1,09,000	

11. The compensation awarded by the tribunal at Rs.25,000/- is enhanced to Rs.1,09,000/-. The second respondent insurance company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of eight weeks from the date of receipt of copy of this judgment. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. It goes



without saying that the enhanced compensation that is paid by the Insurance

Company can be recovered from the owner of the vehicle as was ordered by the

Tribunal.

12. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

07-07-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

rpp

To

1. Motor Accident Claims Tribunal, Sub-Judge, Sankari.

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



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T.V.THAMILSELVI J.

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