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CMA.No.487 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 20.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.487 of 2025

Arumugam

... Appellant

Vs.

1. M.Anbazhagan

2. National Insurance Company Limited,
Third Party HUB, No.66, First Floor,
Greens Road, Chennai 600 085.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 to enhance the award made in Judgment and decree dated 19.10.2023 in MCOP No.446 of 2022 on the file of the Chief Court, Motor Accident Claims Tribunal, Court of Small Causes, Chennai.

For appellant : Mr.M.Sivakumar

For Respondents : Mr.M.Krishnamoorthy
for second respondent



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JUDGMENT

Not satisfied with the quantum of compensation awarded by the Tribunal, the claimant has come before this court by filing the present appeal.

2. The first respondent remained absent before the Tribunal and hence, notice to him is dispensed with.

3. Both the counsel for the appellants and the second respondent have not advanced any arguments on the question of negligence and liability and therefore, the facts necessary for fixing negligence and liability have not been considered in the present appeal.

4. It is not in dispute that the appellant/ claimant suffered injury in a road accident that had taken place on 13.01.2022 involving a car owned by the first respondent and insured with the second respondent. As a result of road accident, the claimant/appellant's right leg has been amputated above knee level. Therefore, he filed a motor accident claims original petition seeking compensation of Rs.1,00,00,000/-.



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The Tribunal awarded a compensation of Rs.28,60,500/-. Not satisfied with the quantum of compensation, the claimant/appellant has come before this court.

5. The learned counsel for the appellant would submit that the claimant was employed as plumber at the relevant point of time and was earning a sum of Rs.13,000/-. However, the Tribunal fixed notional income only at Rs.10,000/- and the same is very much on lower side. He further submits that in view of amputation of right leg above knee level, the claimant/appellant is completely disabled from doing his plumber avocation and hence, the Tribunal ought to have taken functional disability at 100%.

6. The learned counsel for the second respondent would submit that the Medical Board issued disability certificate Ex.P16, assessing the disability suffered by the claimant at 80%. Therefore, the Tribunal fixed disability at 80%. As far as the income is concerned, the claimant has not produced any documentary evidence to prove the income and avocation and hence, the Tribunal was justified in fixing notional

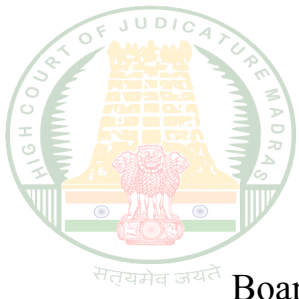


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income at Rs.10,000/-. He further submits that the amount of Rs.2,00,000/- each awarded under the heads i) Transport Expenses and Extra Nourishments, ii) loss of happiness and loss of expectation of life and iii) Mental Agony and pain and sufferings are very much on higher side. He also submits that the compensation of Rs.1,00,000/- awarded towards Attender charges is also on higher side.

7. The Medical Board had examined the claimant/appellant and issued Ex.P16 disability Certificate, fixing disability suffered by the claimant at 80%. It is not in dispute that as a result of accident, the claimant's right leg was amputated above the knee level. Therefore, it is clear that the claimant cannot do any manual work. In the claim petition, it was averred that the claimant was engaged as a plumber. Though the claimant has not produced any documents to prove that he was engaged as a plumber and even assuming that the claimant is engaged in any other manual work, due to the amputation of leg, he could not continue his work either as plumber or any other manual job. Therefore, considering the serious nature of disability suffered by the claimant, this court feels that 80% disability assessed by the Medical



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Board shall be taken as 100% functional disability, as per the law laid by the *Honourable Supreme Court in Rajkumar Vs. Ajay Kumar and another reported in 2011(1) SCC 343.*

8. As far as the income of the claimant is concerned, in the claim petition, the claimant had averred that his income was Rs.13,000/- per month at the relevant point of time. The Tribunal fixed a sum of Rs.10,000/- as notional income. Even if there is no evidence to prove the income of the claimant, taking into consideration that the accident had occurred in the year 2022 and the cost of living, this court is inclined to fix a sum of Rs.13,000/- per month as notional income of the claimant/ appellant. Even though in some of the cases, this court fixed notional income on higher side for the year 2022, in the case on hand, the claimant himself restricted his monthly income at Rs.13,000/- Therefore, this court is inclined to fix the notional income of the claimant at Rs.13,000/-.

9. As per Ex.P5 Adhar Card and Ex.P7 Pan Card, the appellant was born on 25.03.1982 and the accident had occurred on 13.01.2022.



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Therefore, his age shall be fixed as 39 years on the date of accident. In the claim petition, the claimant mentioned his age as 40 years. However, based on documentary evidence before the court, his age is fixed as 39 years.

10. As per the law laid down by the *Honourable Supreme Court in National Insurance Company Limited Vs. Pranay Sethi and others reported in AIR 2017 SC 5157(Special Leave Petition (Civil) No.25590 of 2014 dated 31.10.2017)*, the claimant is entitled to 40% enhancement on the income towards future prospects. Therefore, monthly income of the claimant/appellant is fixed at Rs.18,200/- (13,000 +5200), which includes 40% future prospects. At the time of accident, the appellant was aged 40 years, Hence, proper multiplier to be adopted is 15. Accordingly, a sum of Rs.32,76,000 (18200 x 12 x 15) is fixed towards loss of disability.

11. The Tribunal awarded a sum of Rs.2,00,000/- each under the heads i) Transport Expenses and Extra Nourishments, ii) loss of happiness and loss of expectation of life and iii) Mental Agony and



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pain and sufferings. This Court feels that the above compensation awarded by the Tribunal under the above said heads are on higher side. Therefore, taking into consideration the facts and circumstances of the case, period of hospitalization and the injury suffered by the claimant, this court fixes a sum of Rs.30,000/- under the head ' Transportation and extra nourishments'. Likewise, a sum of Rs.40,000/- is fixed towards '**Loss of amenities** ' instead of loss of happiness and loss of expectation of life. Further a compensation of Rs.40,000/- is fixed towards '**pain and sufferings**' instead of 'Mental Agony and pain and sufferings'. An amount of Rs.1,00,000/- fixed by the Tribunal under the head Attender charges is also reduced to Rs.30,000/-.

12. Accordingly, the revised compensation awarded by this Court is tabulated as under:

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Permanent disability (including Future Prospects)	14,40,000	32,76,000	enhanced
2.	Future Prospects	7,20,000	nil	set aside



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3.	Transportation and extra nourishment	2,00,000	30,000	reduced
4.	Los of amenities instead of Loss of happiness and Loss of expectation of life	2,00,000	40,000	reduced
5.	Pain and sufferings instead of mental agony and pain sufferings	2,00,000	40,000	reduced
6	Medical expenses	500	500	confirmed
7	Attender charges	1,00,000	30,000	reduced
	Total	28,60,500	34,16,500	enhanced by 5,56,000

13. With the above modifications, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.28,60,500/- is hereby enhanced to **Rs.34,16,500/-** together with interest at 7.5% per annum, from the date of petition till the date of deposit.

14. The **second respondent** is directed to deposit the compensation amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a



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period of **four weeks** from the date of receipt of a copy of this judgment. On such deposit, the appellants/claimants shall be permitted to withdraw the compensation amount along with interest and costs, less the amount if any, already withdrawn by making formal application before the Tribunal. No costs.

20.02.2025

Index:Yes/No
Internet:Yes/No
mst

To

1. The Chief Judge,
Motor Accident Claims Tribunal,
Small Causes Court, Chennai.



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S.SOUNTAR, J.

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