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C.M.A.No.3072 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.3072 of 2024

Navap John

...Appellant

Vs.

1.Elango

2. The Divisional Manager,
United India Insurance Company Ltd.,
Divisional Office, 96-B, K.T.Complex,
New Scheme Road, Pollachi-642 002.

...Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, challenging the Judgment and Decree dated 12.04.2023 made in M.C.O.P.No.612 of 2020 on the file of the Motor Accident Claims Tribunal, Special Subordinate Court, Krishnagiri.

For Appellant : Ms.L.Manisha

For Respondents : Mr.J.Chandran, for R2
R1 Dispensed with
vide order dated 25.10.2024

JUDGMENT



C.M.A.No.3072 of 2024

WEB COPY

Challenging the Judgment and Decree dated 12.04.2023 made in M.C.O.P.No.612 of 2020 on the file of the Motor Accident Claims Tribunal, Special Subordinate Court, Krishnagiri, the claimant has come up with this appeal for enhancement of compensation.

2. It is the case of the claimant that, on 13.04.2017, the claimant was riding a two wheeler bearing registration No.TN-48-W-7867 along with a pillion. While nearing the Highway Hotel at Girisamuthiram on the Krishnagiri to Vellore NH Road, the driver of the tanker lorry bearing Registration No.TN-38-AX-1177 belonged to the 1st respondent drove the vehicle in a rash and negligent manner caused the accident. As a result of the accident, the claimant suffered grievous injuries. Hence, the petitioner has filed claim petition before the Tribunal for compensation.

3. Before the Tribunal, petitioner was examined as P.W.1 and Minor Sudesiya was examined as PW2 and marked the documents Exs.P1 to P16 and no witnesses and documents were examined and marked on the side of the respondents and Medical Board Report were



C.M.A.No.3072 of 2024

marked as Exs.C1 and C2.

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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, awarded an amount of Rs.3,08,700/- 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.

5. The learned counsel for the appellant submitted that the claims Tribunal without any evidence had been fixed 10% contributory negligence is not sustainable. The amount awarded in various heads also on the lower side. Accordingly, he prayed for enhancement of the compensation.

6. Per contra, the learned counsel appearing on behalf of the 2nd respondent-Insurance Company contended that the claimant does not have valid driving licence at the time of accident, therefore, the Tribunal



C.M.A.No.3072 of 2024

fixed 10% contributory negligence on the petitioner, the same may be confirmed and also 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.

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

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

9. Insofar as the quantum of compensation fixed by the tribunal is concerned, the accident is of the year 2017 and at the time of accident, the petitioner was doing a building painting work and earning Rs.30,000/- p.m., the Tribunal had fixed only Rs.8,250/-. The Tribunal fixed Rs.5,000/- per percentage for the disability is on the lower side. Therefore, the same is to be enhanced as Rs.7,000/- per percentage, then it would come to $\text{Rs.}7000 \times 45 = \text{Rs.}3,15,000/-$.



C.M.A.No.3072 of 2024

WEB COPY

10. Insofar as the compensation awarded under the other heads are concerned, a sum of Rs.16,500/- has been awarded under the head Loss of income which is on the lower side and thereby, the same is enhanced to Rs.20,000/- and a sum of Rs.30,000/- is awarded under the head of pain and sufferings is on the lower side. Therefore, the same is enhanced to Rs.60,000/-. Towards Additional nourishment a sum of Rs.15,000/- is granted, the same is enhanced to Rs.30,000/-. Towards Damages to clothes this Court reduce the amount to Rs.1,000/- and for Attender Charges this Court enhance the amount to Rs.10,000/-. Towards loss of amenities and Future Medical Expenses, this Court rejected the amounts awarded by the Tribunal. Towards Transportation, the amount awarded by the Tribunal is hereby confirmed.

11. 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	2,25,000/-	3,15,000/-



C.M.A.No.3072 of 2024

WEB COPY

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Modified Award Amount (Rs.)</i>
Loss of Income	16,500/-	20,000/-
Pain and Sufferings	30,000/-	60,000/-
For Transportation Expenses	10,000/-	10,000/-
Additional Nourishment	15,000/-	30,000/-
For Damages to Clothes	1,500/-	1,000/-
Attender Charges	5,000/-	10,000/-
Loss of Amenities	20,000/-	-
Future Medical Expenses	20,000/-	-
Total Compensation is fixed at	3,43,000/-	4,46,000/-
Negligence of the petitioner at 10%	34,300/-	44,600/-
Rounded off	3,08,700/-	4,01,400/-

12. Accordingly, this Civil Miscellaneous Appeal stands allowed in part and the impugned award passed by the Tribunal in M.C.O.P.No.612 of 2020 is modified by enhancing the compensation amount from **Rs.3,08,700/-** to **Rs.4,01,400/-**. The 2nd respondent Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.612



C.M.A.No.3072 of 2024

of 2020 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 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

To:

1. The Motor Accident Claims Tribunal,
Special Subordinate Court, Krishnagiri.



C.M.A.No.3072 of 2024

WEB COPY

2. The Section Officer,
V.R. Section, High Court, Madras.

M.DHANDAPANI, J.,

ssn

C.M.A.No.3072 of 2024



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C.M.A.No.3072 of 2024

09.01.2025