

C.M.A.No.2841 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	04.06.2025
Pronounced on	30.06.2025

CORAM

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI
C.M.A.No.2841 of 2023

R. Kathiravan

...Appellant

Vs.

K. Rajalingam

...Respondent

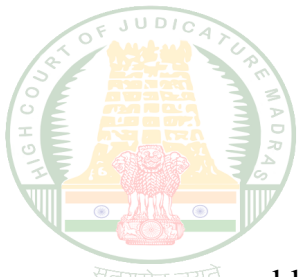
Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act,1988, against the judgment and decree in MCOP. No.823 of 2019 dated 27.06.2023 on the file of the Motor Accident Claims Tribunal (II Additional Subordinate Judge) Cuddalore.

For Appellant : Ms.Ramya V. Rao

For Respondent : No Appearance

JUDGMENT

Being aggrieved by the Award dated 27.06.2023 passed by Motor Accident Claims Tribunal (II Additional Subordinate Judge) Cuddalore, in MCOP No.823 of 2019, whereby the claim petition was dismissed, the present



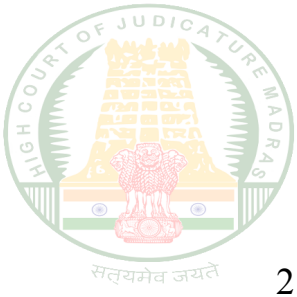
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appeal has been filed.

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2. The brief facts of the case are as follows:

2.1. On 12.01.2019, at about 17.50 hours when the appellant/claimant was riding his TVS XL Super Moped bearing Registration No. TN31C9216 on Cuddalore-Nellikuppam main road, proceeding from east to west at a moderate speed following the traffic rules, opposite to Sathanas Tailor Shop at Chavady, the respondent's Honda Dio Motor Cycle bearing Registration No. TN31BF6426 came in the opposite direction from west to east at a great speed in a rash and negligent manner and dashed against the appellant's two wheeler, as a result of which, the appellant/claimant sustained fracture on the left leg tibia bone proximal 1/3rd, lacerated injury on left leg, knee and foot, grievous injury on head with Hematoma, heavy impact on hip and chest and multiple fracture and grievous injuries all over the body. The appellant/claimant was taken to the Government Hospital in Cuddalore and then to private hospitals for treatment. According to the claimant, the accident occurred only due to the rash and negligent riding of the respondent.



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2.2. According to the appellant/claimant, at the time of accident, he was a tailor earning a sum of Rs.20,000/- per month. Hence, the claim petition has been filed by the appellant claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him in the said accident.

2.3 Despite notice and paper publication, the respondent failed to appear before the Tribunal and was set *ex parte* on 03.02.2020. The Tribunal proceeded to hear the claimant. On the side of the claimant, the claimant examined himself as P.W.1 and marked Ex.P1 to Ex.P6. The report of the Medical Board was marked as Ex.C1.

2.4. The Tribunal dismissed the Claim Petition filed by the claimant by stating that the injuries sustained by the claimant was not substantiated by medical records. Aggrieved over the same, the present Civil Miscellaneous Appeal has been filed by the claimant.

3. Ms.Ramya V. Rao, learned counsel for the appellant/claimant submits that the Accident Register issued by the Government Hospital, Cuddalore,



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was marked as Ex.P2 and the Medical Board has assessed the disability of the claimant at 27% and issued Disability Certificate and the same was marked as Ex.C1. However, the Tribunal, without proper appreciation of evidence on record, erroneously dismissed the Claim Petition, which requires interference by this Court. The counsel further submits that the alleged accident took place due to the negligence act of the respondent. Since Motor Vehicles Act is a beneficial legislation, the injured appellant has to be compensated for the injuries sustained by him.

4. Though the name of the respondent is printed in the cause list after due notice, there is no representation on behalf of the respondent.

5. The appellant/claimant filed the Claim Petition in MC.O.P. No.823/2019 claiming compensation of Rs.10,00,000/- for the injuries sustained by him in the road accident that took place on 12.01.2019. The evidence of P.W.1, the FIR (Ex.P1), the Accident Register (Ex.P2) and the Accident Inspection Report (Ex.P3) reveal that the appellant/claimant has met with an accident and suffered injuries. However, the Tribunal dismissed the



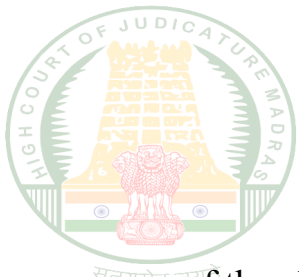
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Claim Petition on the ground that the injury was not proved by production of Discharge Summary and other medical records. The oral and documentary evidence adduced on the side of the appellant/claimant would clearly prove that the appellant sustained grievous injuries in the said accident. The Medical Board at Government Head Quarters Hospital, Cuddalore, on 20.12.2022, after examining the appellant/claimant, assessed the partial disability of the appellant at 27% and issued Disability Certificate (Ex.C1). The claimant/appellant has also proved that the accident took place only due to the negligence on the part of the respondent motorcycle rider by producing the FIR (Ex.P1). No contrary evidence was produced on the side of the respondent to rebut the same.

6. Considering the facts and circumstances of the case, this Court is of the view that the appellant would be entitled for compensation.

7. The injured was 30 years old at the time of alleged accident. The Disability Certificate (ExC1) issued by the Medical Board, Cuddalore, reveals that the injured has suffered 27% permanent disability. Considering the age



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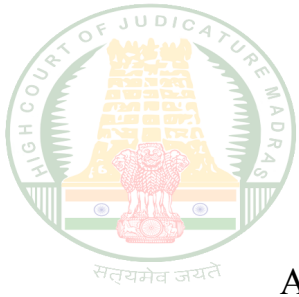
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of the claimant and the year of accident, a sum of Rs.2,000/- per percentage of disability is awarded. Hence, a sum of Rs.54,000/- is awarded towards partial permanent disability. Considering the above said disability and perusing the medical records and the nature of injuries suffered by the claimant/appellant, this Court is inclined to award a just and fair compensation under the following heads.

S.No.	Description	Amount Awarded by this Court
1.	Partial permanent disability	54,000/- (27x2000)
2.	Pain and sufferings	15,000/-
3.	Transportation and extra nourishment	5,000/-
	Total	74,000/-

8. In the result,

- i. The Civil Miscellaneous Appeal is allowed. No costs.
- ii. The judgment and decree made in MCOP. No.823 of 2019 dated 27.06.2023 on the file of the Motor Accident Claims Tribunal (II



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Additional Subordinate Judge) Cuddalore. is set aside.

- iii. A compensation of Rs.74,000/- is awarded to the appellant /claimant.
- iv. The respondent, is directed to deposit the compensation amount of Rs.74,000/- together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP. No.823 of 2019 dated 27.06.2023 on the file of the Motor Accident Claims Tribunal (II Additional Subordinate Judge) Cuddalore. within a period of four weeks from the date of receipt of a copy of this order/uploading of this order.
- v. On such deposit being made, the appellant/claimant is at liberty to withdraw the same, after following due process of law.

30.06.2025

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Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order



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K.GOVINDARAJAN THILAKAVADI, J.

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To

1. Motor Accident Claims Tribunal (II Additional Subordinate Judge)
Cuddalore.
2. The Section Officer,
VR Section, High Court, Madras.

Pre-delivery Judgment made in

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30.06.2025