



CMA No.3286 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2025

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.3286 of 2024

Siva Prasad

... Appellant

Vs.

1.Y.Sonika

2.IFFCO – Tokio General Insurance Co.Ltd.,

No.128, IFFCO Bhavan, 4th Floor,

Habibullah Road, Chennai-600 117.

... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the judgement and decree, dated 16.03.2023 passed in MCOP.No.2261 of 2018, on the file of Motor Accidents Claims Tribunal, Chennai (In the Special Subordinate Judge-II, Court of Small Causes).

For Appellant

: Mr.M.Pachaiyappan

For R2

: Mr.K.Poomalai

JUDGMENT

The appellant has filed this appeal against the award passed in MCOP.No.2261 of 2018, on the file of Motor Accidents Claims Tribunal, Chennai (In the Special Subordinate Judge-II, Court of Small Causes), dated 16.03.2023.



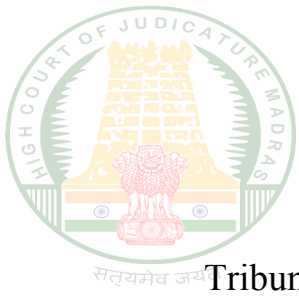
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2. The brief facts of the case of the appellant/claimant are as follows:

On 02.01.2018, at about 9.30 p.m., while the appellant / petitioner in MCOP.NO.2261 of 2018 was riding a motorcycle bearing Registration No.TN-20-CK-1282, and the petitioner in MCOP.No.2262 of 2018 was travelling as a pillion rider on the same motorcycle, at Kalangi – Anjur Road, near Guntipedu Bus stop, KVB.Puram Mandal, Chittoor District, Andhra Pradesh, another motorcycle bearing Registration NO.AP-03-CG-1925 came from the opposite direction. The said motorcycle was being ridden by its rider in a rash and negligent manner, endangering public safety, and hit the petitioner's motorcycle. In the above accident, the petitioner sustained grievous injuries. The accident occurred solely due to the rash and negligent driving of the rider of the motorcycle bearing Registration No. AP-03-CG-1925. The first respondent is the owner of the said motorcycle, and the second respondent, being its insurer, is statutorily and vicariously liable to pay compensation to the petitioner.

3. Upon considering the oral and documentary evidence, the



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Tribunal partly allowed the claim petition and awarded a sum of Rs.1,60,300/- as compensation, directed the 2nd respondent to pay the said amount to the appellant, along with interest at the rate of 7.5% per annum from the date of petition till the date of realisation, with liberty to recover the same from the 1st respondent without filing any separate application.

4. Aggrieved by the quantum of compensation awarded by the Tribunal, the appellant (claimant) has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Heard Mr. M.Pachaiyappan, learned counsel appearing for the appellant, and Mr.K.Poomalai, learned counsel appearing for the second respondent.

6. The learned counsel for the appellant submitted that the compensation awarded by the Tribunal is not commensurate with the injuries sustained by the claimant. He, therefore, prayed for enhancement of compensation.



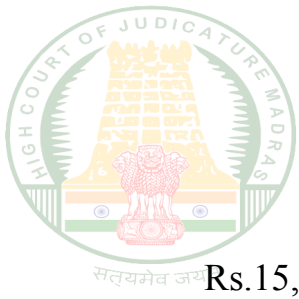
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7. On the other hand, the learned counsel appearing for the second respondent contended that the award passed by the Tribunal is based on well-settled principles of law applicable at the time of the order, and therefore, it need not be interfered.

8. The Medical Board assessed his partial permanent disability at 12%. The Tribunal did not find any functional disability, and therefore, awarded compensation at the rate of Rs.5,000/- per percentage of disability. However, considering the claimant's age (29 years at the time of accident) and the nature of injuries sustained, it would be appropriate to enhance the compensation to Rs.7,000/- per percentage. Accordingly, a sum of Rs.84,000/- (Rs.7,000 x 12%) is awarded towards partial permanent disability.

9. The appellant was working as a Cook and was earning



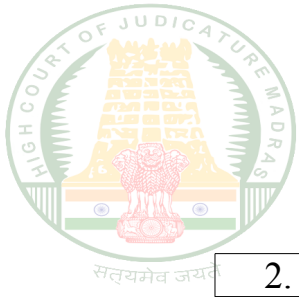
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Rs.15,000/- per month. However, the appellant has not produced any document to prove her income. Considering the nature of employment and the absence of documentary proof, this Court is of the opinion that fixing the notional monthly income of the injured at Rs.15,000/- would meet the ends of justice. Due to the accident, the appellant would have been unable to attend to his regular work for at least three months. Therefore, a sum of Rs.45,000/- (Rs.15,000 x 3 months) is awarded towards loss of income during the period of treatment and recovery. Additionally, the amount awarded by the Tribunal under the heads of Attender Charges and Transportation are enhanced to Rs.12,000/- and Rs.10,000/- respectively. The compensation awarded under the other heads by the Tribunal is confirmed.

10. The following tabular column sets out the amounts awarded by the Tribunal and the enhanced amounts awarded by this Court under various heads:

Sl. No	Heads	Amount (in Rs.) awarded by the Tribunal	Amount (in Rs.) awarded by the High Court
1.	Disability	60,000	84,000



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2.	Pain and sufferings	35,000	35,000
3.	Transportation	4,000	10,000
4.	Medical Expenses	13,572	13,572
5.	Extra Nourishment	10,000	10,000
6.	Attender Charges	5,700	12,000
7.	Loss of earnings	22,000	45,000
8.	Loss of Amenities	10,000	10,000
	Total	Rs.1,60,272/-	Rs.2,19,572
	Rounded off	Rs.1,60,300/-	

Thus, the compensation awarded by the Tribunal is enhanced from Rs.1,60,300/- to Rs.2,19,572/-, which shall carry interest at the rate of 7.5% per annum.

11. In the result:

- i. The Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs.
- ii. The compensation awarded by the Tribunal is enhanced from Rs.1,60,300/- to Rs.2,19,572/-.
- iii. The appellant/claimant is directed to pay the Court fee for the enhanced compensation amount, if any. The Registry is directed to draft



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the decree only after the receipt of the Court fee.

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iv. The second respondent / the IFFCO – Tokio General Insurance Company Limited, is directed to deposit the amount awarded by this Court i.e., Rs.2,19,572/- (Rupees Two lakhs nineteen thousand five hundred and seventy two only), together with interest at the rate of 7.5% per annum, from the date of claim petition till the date of realization, within a period of eight weeks from the date of receipt of a copy of this order, in the first instance. Thereafter, the Insurance Company is at liberty to recover the same from the first respondent / owner of the vehicle under the same cause of action.

v. On such deposit being made, the appellant/claimant is at liberty to withdraw the same, after following due process of law.

vi. The appellant/claimant shall not be entitled to claim interest for the period of delay, if any, in filing this appeal.



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Index: Yes/No

Speaking/non Speaking order

Neutral Case citation: yes/no

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To

1. The Motor Accidents Claims Tribunal
(In the Special Sub Judge-II, Court of Small Causes), Chennai).
2. The IFFCO – Tokio General Insurance Co.Ltd.,
No.128, IFFCO Bhavan, 4th Floor,
Habibullah Road, Chennai-600 117.
3. The Section Officer, V.R. Section,
High Court of Madras.

T.V.THAMILSELVI, J.

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