



C.M.A.No.772 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 02.04.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.772 of 2025
and C.M.P.No.6207 of 2025

The Divisional Manager,
National Insurance Co. Ltd.,
Division Office,
Puducherry-1

... Appellant

VS.

1.V.Balasubramanian

2.K.Prabakaran

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the Judgment and Decree dated 17.06.2022 and made in M.C.O.P.No.4102 of 2018 on the file of the Motor Accident Claims Tribunal at Cuddalore (In the Court of the Principal Sub Judge, Cuddalore).

For Appellant : Mr.S.Vadivel

For R1 : M/s.Ramya V.Rao

For R2 : Notice Dispensed With

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the Insurance Company challenging the award passed by the Motor Accident



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Claims Tribunal (in the Court of the Principal Sub Judge), Cuddalore in

WEB COM M.C.O.P.No.4102 of 2018, dated 17.06.2022.

2. It is the case of the 1st respondent/claimant that he suffered facial fracture in a road accident that had occurred on 29.06.2018. According to him, he was proceeding in his two wheeler bearing Registration No.PY-01-AL-9974 from West to East in a moderate speed. When he came near Surya Paper Cup Company in Puduchathram to Parangipettai Salai, the 2nd respondent came in the opposite direction in his Hero Xtreme Motor Cycle bearing Registration No.TN-31-BU-5924 in a rash and negligent manner and dashed against the two wheeler of the claimant. As a result of the accident, the claimant suffered fracture in right zygomatic arch infra-orbital region, grievous injury in right zygomatic region, grievous injury in right outer canthus of eye, grievous injury antero medial aspect, ENT bleed, tenderness on left tibia, intra cerebral hemorrhagic contusions, hemosinus in right maxillary sinus etc. Therefore, a claim petition was filed seeking compensation of Rs.20,00,000/- against the 2nd respondent and appellant herein, who are owner and insurer of the offending vehicle.



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3. The 2nd respondent remained *exparte* before the Tribunal. The claim petition was contested by the appellant-insurance company. It was the case of the appellant/insurance company that the accident had occurred only due to the rash and negligent driving of the two wheeler of the 1st respondent/claimant.

4. Before the Tribunal, the 1st respondent/claimant was examined as PW.1 and on behalf of the claimant, 10 documents were marked as Exs.P1 to P10. On behalf of the Appellant-Insurance Company, one P.Ganesan, Junior Assistant, Transport Department, Cuddalore was examined as RW.1 and 1 document was marked as Ex.R1. The Disability Certificate issued by the Medical Board to the claimant was marked as Ex.C1.

5. The Tribunal based on the evidence available on record, came to the conclusion that accident had occurred only due to the rash and negligent driving of the 2nd respondent herein and hence, fastened liability on the insurer of the 2nd respondent vehicle namely the appellant. The compensation payable to the claimant was quantified at Rs.4,72,635/-. Aggrieved by the quantum of compensation, the Insurance Company filed this appeal.

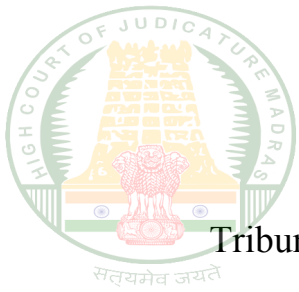


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6. The learned counsel appearing for the appellant-insurance company would submit that the 1st respondent/claimant has not suffered any functional disability and therefore, the Tribunal committed an error in applying multiplier method while calculating the compensation.

7. The learned counsel appearing for the 1st respondent/claimant would submit that due to the facial fracture suffered by the claimant, the claimant was disabled from discharging his duty as a lorry driver and therefore, the Tribunal was justified in adopting multiplier method.

8. In order to prove the disability suffered by the claimant, he was referred to Medical Board and the Disability Certificate issued by the Medical Board was marked as Ex.C1. A perusal of the Discharge Summary and CT Scan Report marked as Exs.P3 and P4 respectively would indicate that the claimant suffered fracture in his right zygomatic arch, infra-orbital region. It is also seen from the scan report, intra cerebral hemorrhagic contusions had been noted. However, there is no evidence available on record to suggest that the injury suffered by the claimant in the accident resulted in permanent functional disability. In these circumstances, the



Tribunal was not justified in adopting multiplier method.

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9. As per Ex.C1, the disability of the claimant was fixed at 24%. The accident had occurred in the year 2018. Therefore, this Court is inclined to grant Rs.7,000/- per percentage of disability. Hence, the claimant is entitled to Rs.1,68,000/- under the head disability. (Rs.7,000 x 24).

10. Taking into consideration the nature of injury suffered by the claimant and period of hospitalisation, this Court is inclined to increase the amount awarded by the Tribunal under the head pain and suffering from Rs.30,000/- to Rs.40,000/-. Likewise, the amount awarded by the Tribunal under the head loss of amenities is increased to Rs.30,000/-.

11. It is noted in the CT Scan Report, the claimant suffered intra cerebral hemorrhagic contusions, taking into consideration the serious nature of injury, this Court is inclined to grant loss of income for 5 months period. Since the accident had occurred in the year 2018, the notional income is fixed at Rs.16,500/-. The claimant is entitled to Rs.82,500/- under the head loss of income (Rs.16,500/- x 5). The amount awarded under the heads



transportation charges and extra nourishment is increased to Rs.20,000/-

each. The amount awarded under the head attender charges is increased to

Rs.10,000/-. The amount awarded by the Tribunal under the head medical

expenses is based on document and the same is confirmed. Accordingly, the

total compensation payable to the claimant is modified as follows:-

Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court	Remarks
1.	Disability	Rs.3,13,632/-	Rs.1,68,000/-	Reduced
2.	Transport Expenses	Rs.10,000/-	Rs.20,000/-	Enhanced
3.	Extra Nourishment	Rs.10,000/-	Rs.20,000/-	Enhanced
4.	Attender Charges	Rs.5,000/-	Rs.10,000/-	Enhanced
5.	Pain and Suffering	Rs.30,000/-	Rs.40,000/-	Enhanced
6.	Loss of Amenities	Rs.20,000/-	Rs.30,000/-	Enhanced
7.	Medical Expenses	Rs.57,003/-	Rs.57,003/-	Confirmed
8.	Temporary loss of Income	Rs.27,000/-	Rs.82,500/-	Enhanced
Total		Rs.4,72,635/-	Rs.4,27,503/-	Reduced by Rs.45,132/-

12. In view of the discussions made earlier, the compensation amount payable to the claimant is reduced to Rs.4,27,503/- from Rs.4,72,635/-. The Appellant/Insurance Company is directed to deposit said award amount together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, to the credit of M.C.O.P.No.4102 of 2018



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on the file of the Motor Accident Claims Tribunal (in the Court of the Principal Sub Judge), Cuddalore, within a period of six weeks from the date of receipt of copy of this judgment. On such deposit, the 1st respondent/claimant is permitted to withdraw the award amount by making formal application before the Tribunal.

13. Accordingly, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, the connected civil miscellaneous petition is closed.

02.04.2025

Index :Yes/No
Speaking order :Yes/No
Neutral Citation :Yes/No
dm

To

- 1.The Motor Accident Claims Tribunal, Cuddalore,
(In the Court of the Principal Sub Judge, Cuddalore).
- 2.The Section Officer,
VR Section,
High Court, Madras.



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S.SOUNTHAR, J.

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