IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA.No.103 of 2023

Srinivasan

... Appellant

Vs.

1.Devaki
2.M/s.Reliance General Insurance Company Limited,
2nd Floor, Door No.12, H2035,
15th Main Road, Anna Nagar West,
Chennai – 600 040. ... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 11.07.2022 in MCOP.No.7454 of 2015 on the file of the Motor Accident Claims Tribunal, V Small Causes Court, Chennai.

For Appellant : Mr.R.Nandakumar
For Respondents : M/s.R.C.Manoharan for R1
Mr.P.Suresh Srinivasan for R2

J U D G M E N T

The appellant/injured claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal V Small Causes Court, Chennai, in MCOP.No.7454 of 2015, dated 11.07.2022, has come by way of this Civil Miscellaneous Appeal.

2. It is not in dispute that the appellant/claimant was travelling in the Sedan Car bearing registration No.TN-55AF-7449 along with his friends from North to South on 11.06.2015 and the driver of the car who drove the car, in which the appellant was travelling applied the sudden brake and the same resulted in toppling of the car and the appellant was thrown out of the car. Thus, the appellant suffered grievous injuries on the head, chest, abdomen and all over the body. The first respondent is the owner of the car in which the appellant was travelling and the second respondent is the insurer of the car. The appellant filed this petition seeking compensation of Rs.40,00,000/- and as against the said claim, the Tribunal granted Rs.3,25,600/-. Hence the appellant has come by way of this Civil Miscellaneous Appeal.

3. Heard the learned counsel appearing for appellant/claimant and the learned counsel appearing for the 2nd respondent. Though the first respondent was served and his counsel entered appearance, there is no representation for the first respondent.

4. Both the learned counsel appearing for the appellant and the second respondent confined their arguments to the questions of quantum. As no arguments were advanced on the questions of negligence and liability, necessary facts leading to the fixation of negligence and liability by the Tribunal are not discussed in this judgment.

5. The learned counsel appearing for the appellant would submit that under Ex.P5, the appellant produced Medical Bills to prove the medical expenses incurred by him to the tune of Rs.7,71,006/- and the same has not been properly considered by the Tribunal and only a sum of Rs.96,006/- was awarded under the head medical expenses and the same has to be enhanced. He further submitted that the appellant was in a hospital for nearly thirty one days, therefore, the amount of Rs.24,000/- awarded by the Tribunal under the head loss of income during treatment period is very much on the lower side. He also sought for enhancement of compensation under the head of pain and suffering.

6. The learned counsel appearing for the Insurance Company would submit that the treatment received by the appellant in Apollo

Hospital was covered by the Mediclaim policy through ICICI, Lombard General Insurance Company. Therefore, the Tribunal rightly ignored consolidated medical bill issued by the Apollo Hospital to the tune of Rs.6,97,763/- and granted only Rs.96,006/-, taking into consideration, the actual expenses incurred by the appellant. He further submitted that the appellant has not produced any documents to prove the avocation and hence the amount of Rs.24,000/- awarded under the head of loss of income is justifiable.

7. In order to prove the medical expenses, the appellant marked Ex.P5-medical bills and a perusal of the same would suggest that the appellant produced bill for a sum of Rs.7,71,006/-, after deducting Rs.3,00,000/- **c**overed by the Insurance Company. In the consolidated bill issued by the Apollo Hospital from 12.06.2015 till discharge on 10.07.2015, the total bill amount was mentioned Rs.10,17,763/-. Further a perusal of the bill would indicate that the amount authorised by ICICI, Lombard General Insurance Company was mentioned as Rs.3,00,000/-. After deducting said sum, the appellant paid remaining amount of Rs.6,97,763/-, the amount of Rs.6,75,000/- was paid by the appellant under various bill numbers as

mentioned in the consolidated bill. The balance amount mentioned in the consolidated bill was paid by the appellant as cash under bill receipt No.8231096 for a sum of Rs.22,763/-. The Tribunal has only taken into consideration the bill for Rs.22,763/- along with other bills produced by the appellant regarding the medical expenses incurred by him prior to his admission in Appollo hospital and after his discharge from the said Hospital. A sum of Rs.6,75,000/- paid by the appellant under various bills as indicated in the consolidated bill has not been taken into consideration. Therefore, in addition to Rs.96,006/- awarded by the Trinunal, the appellant is entitled to a sum of Rs.6,75,000/- as indicated in the consolidated bill issued to the appellant dated 10.07.2015. The said amount was omitted in the award passed by the Tribunal. Hence, the appellant is entitled to Rs.7,71,006/- under the head medical expenses.

8. The accident had occurred in the year 2015. Though no document has been produced to prove the income for the appellant, taking into consideration, the date of accident and the cost of living at that time, this Court fixes notional income at Rs.15,000/-. As per the discharge summaries Exs.P4 and P6, the appellant was in hospital for nearly 31 days,

therefore, this Court feels the appellant would have been kept out of his avocation for nearly four months, therefore, he is entitled to Rs.60,000/- (Rs.15,000x4) under the head loss of income.

9. A perusal of discharge summaries Exs.P4 and P6 would indicate that the appellant suffered head injury-high Parietal Focal Sub Archanoid Haemorrhage and Diffuse Axonal injury. He also suffered multiple fracture in rib, fracture in left clavicle, bilateral Hemothorax and Grade II-III – Liver, Grade II Splenic injury. Taking into consideration, the nature of injury suffered by the appellant and the long treatment period, this Court feels that the amount of Rs.20,000/- awarded by the Tribunal towards pain and suffering should be enhanced to Rs.40,000/-. Since the amount Rs.40,000/- is awarded under the head pain and suffering, the amount of Rs.10,000/- under the head mental agony is set aside. The amount of Rs.1,000/- awarded by the Tribunal towards damage to clothes also set aside. The amount awarded by the Tribunal under various other heads are confirmed.

10. In the light of the above discussion, this Court modifies the compensation in the following manner:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)
1.	Disability	1,04,000/-	1,04,000/-
2.	Medical bills	96,006/-	7,71,006/-
3.	Loss of income	24,000/-	60,000/-
4.	Pain and suffering	20,000/-	40,000/-
5.	Transportation Expenses	10,000/-	10,000/-
6.	Nutrition Expenses	20,000/-	20,000/-
7.	Damages to Clothes	1,000/-	-
8.	Attender Charges	15,500/-	15,500/-
9.	Loss of amenities	25,000/-	25,000/-
10.	Mental Agony	10,000/-	-
	Total	3,25,506/-	10,45,506/-
		Rounded off to Rs.3,25,600/-	10,45,506/-

11. In view of the discussions made earlier, the appellant is entitled to a sum of 10,45,506/- as against a sum of 3,25,600/- awarded by

the Tribunal. The appellant is entitled to interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, the 2nd respondent is directed to deposit said award amount, after deducting the amount already deposited, if any, to the credit of MCOP.No.7454 of 2015, on the file of the Motor Accident Claims Tribunal, V Small Causes Court, Chennai. On such deposit, the appellant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount, if any, already withdrawn, by making formal application before the Tribunal.

12. Accordingly, this Civil Miscellaneous Appeal is partly allowed. No costs.

21.02.2025

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

To
1.The Motor Accident Claims Tribunal,
V Small Causes Court, Chennai.

2.The Section Officer
VR Section, High Court, Madras.

S.SOUNTHAR, J.

ub

CMA.No.103 of 2023

21.02.2025