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CMA No. 858 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-08-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 858 of 2024

A.Kumaresan

Appellant

Vs

1. A.Arun

2.United India Insurance Co.Ltd,
Motor Third Party Claims Cell, No.134,
Grems Road, Chennai 600 006.

Respondents

PRAYER

Civil Miscellaneous Appeal filed under Sec.173 of Motor Vehicles Act, praying to enhance the award amount passed by the Motor Accident Claims Tribunal V Small Causes Court Judge at Chennai, in MCOP.No.5425 of 2015 dated 21.04.2023.

For Appellant: Mr.A. Kumar

For Respondents: Mr.V.Dakshanamoorthy For R2
R1 -no Appearance



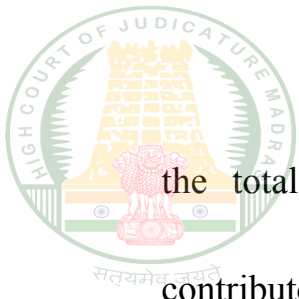
JUDGMENT

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The appellant/petitioner not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.5425 of 2015, dated 21.04.2023 has preferred this appeal seeking for enhancement of compensation.

2.The case of the petitioner is that on 31.01.2015 at about 09.30 hours, when the petitioner was travelling as a pillion rider in a two wheeler bearing Regn. No.TN-20 CV-6626 from Nazarathpettai to Poonamallee West to east direction, near telephone exchange, at that time, a dog suddenly crossed, the rider of two wheeler applied sudden brake, thereby they fell down and caused accident. Due to which, the petitioner sustained injuries, for which he underwent treatment in the hospital. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation of Rs.20,00,000/-.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the rider/1st respondent. Having come to such a conclusion, the Tribunal fixed



the total compensation payable at Rs.8,57,200/- after deducting 50% of contributory negligence under various heads as follows:

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S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Disability	12,77,760
2.	Medial expenses	2,61,674
3.	Loss of income	44,000
4.	Pain and sufferings	50,000
5.	Transportation expenses	10,000
6.	Nutrition expenses	25,000
7.	Damages to cloths	1,000
8.	Attender charges	4,800
9.	Loss of amenities	20,000
10.	Mental agony	20,000
	Total	17,14,234
	Less : 50% contributory negligence	8,57,117
	Net compensation rounded off	8,57,117 8,57,200

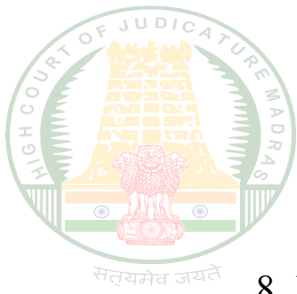
4.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.



5. The appellant not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal before this Court seeking for enhancement of compensation.

6. The learned counsel for appellant would submit that the appellant was only a pillion rider and due to non-wearing of helmet, the tribunal fixed 50% of contributory negligence upon him as such is exorbitant one and the same is liable to be set aside, however, there is no negligence on his part. Further, he would submit that he had incurred medical expenses for more than Rs.3,00,000/-, to that effect, medical bills were marked under Ex.P11 as well as additional bills was also produced, but it was not considered and only a sum of Rs.2,61,674/- was awarded by the tribunal. Hence, he prayed to enhance the compensation.

7. The learned counsel for 2nd respondent raised objections stating that the non-wearing of helmet is a policy condition. Therefore, fixing of 50% contributory negligence is sustainable one. He would also submit that the medical expenses was sufficiently considered by the tribunal, which needs no interference.



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8. Heard and considered rival submissions made by both learned counsel for appellant as well as 2nd respondent and perused materials available on record.

9. Considering both side submissions, the fact reveals that the appellant was a pillion rider and he has not wore helmet at the time of accident, which is a violation of rules, for which, the tribunal had fixed 50% of contributory negligence upon him. However, considering the fact that he was a pillion rider, 10% of contributory negligence can be fixed upon the appellant. With regard to medical expenses marked under Ex.P11 shows that he had spent a sum of Rs.3,00,000/- towards total medical expenses. Therefore, this Court is inclined to award total medical expenses of Rs.3,00,000/- spent by the appellant.

10. On perusal of records, it would further reveals that he was a turner in a private concern, thereby, he would have earned a sum of Rs.13,700/- per month, but there is no income proof produced to that effect. However, considering the fact that the accident happened in the year 2015, considering his profession as a Turner, considering his age as well as considering the cost of



living at that time, this Court is inclined to enhance his notional monthly income from Rs.11,000/- per month to Rs.13,000/- per month.

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11. Due to the injury sustained in the accident, his left leg below knee has been amputated, as a result of which, he sustained severe pain. Considering that, this Court is inclined to enhance the sum awarded towards pain and sufferings from Rs.50,000/- to Rs.75,000/- and also the sum awarded towards damages to cloths is enhanced from Rs.1000/- to Rs.2000/-. Since the multiplier was applied, the awarding of compensation under the heads of loss of income and loss of amenities would not arise. Furthermore, as the appellant's left leg below was amputated, necessarily he has to use artificial leg by spending huge amount. Considering that, this Court is inclined to award a sum of Rs. 1,00,000/- for fixing of artificial limb. The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.

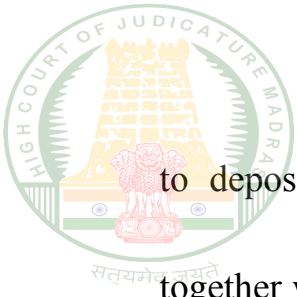
12. In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:



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S.No	Compensation awarded under the head	Amount awarded by the tribunal (in Rs.)	Amount (in Rs.)	Amount confirmed or granted or enhanced
1.	Disability Rs.13,000/- (add 10% future prospects) = 13000 + 1300 = 14300 14300 x 12 x 11 (multiplier) x 80% = 15,10,080	12,77,760	15,10,080	enhanced
2.	Medical expenses	2,61,674	3,00,000	enhanced
3.	Loss of income	44,000		Would not arise
4.	Pain and sufferings	50,000	75,000	enhanced
5.	Transportation expenses	10,000	10,000	confirmed
6.	Nutrition expenses	25,000	25,000	confirmed
7.	Damages to cloths	1,000	2,000	enhanced
8.	Attender charges	4,800	4,800	confirmed
9.	Loss of amenities	20,000		Would not arise
10.	Mental agony	20,000	20,000	confirmed
11.	For fixing artificial limb		1,00,000	awarded
	Total	17,14,234	20,46,880	enhanced
	Less : 10% of contributory negligence	8,57,117	2,04,688	
	Net compensation	8,57,117	18,42,192	
	Rounded off to	8,57,200	18,42,200	

13.The compensation awarded by the tribunal at Rs.8,57,200/- is enhanced to Rs.18,42,200/-. The 2nd respondent insurance company is directed



to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of eight weeks from the date of receipt of copy of this judgment. On such deposit, the appellant is permitted to withdraw the enhanced award amount now determined by this court along with interest and costs, less the amount if any, already withdrawn. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

14. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

28-08-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. Motor Accident Claims Tribunal, V Judge, Court of Small Causes, Chennai.
2. Section Officer, VR Section, Madras High Court.



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T.V.THAMILSELVI J.

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