



C.M.A.No.243 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.243 of 2025

Subha

... Appellant / Petitioner

Vs.

1.G.Muthumariappan

2.Reliance General Insurance Company Limited,
No.6, Haddows Road, Legal Department,
6th Floor, Reliance House,
Nungambakkam,
Chennai-600 006.

... Respondents / Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 11.07.2022 made in M.C.O.P.No.2771 of 2015 on the file of the Motor Accidents Claims Tribunal, (IV Small Causes Court), Chennai.



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For Appellant : Mr.K.Varadha Kamaraj
For Respondents : R1-Dispensed with
Mr.P.Suresh Srinivasan for R2

J U D G M E N T

Aggrieved by the compensation awarded by the Tribunal in M.C.O.P.No.2771 of 2015 filed by the claimant, the appellant/claimant has come before this Court challenging the same by filing the present civil miscellaneous appeal.

2. It is the case of the claimant that, on 01.01.2015 at about 03.00 hours, when the claimant was travelling as a pillion rider in the motorcycle bearing Registration No.TN 18 AA 4152, the motorcycle bearing Registration No.TN 22 CD 4619 belonging to the first respondent was driven by its rider in a rash and negligent manner and hit behind the claimant's motorcycle, due to which, she sustained grievous injuries. Under these circumstances, the claim petition came to be filed by the claimant



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seeking compensation before the Tribunal against the respondents, who are the owner and insurer of the motorcycle bearing Registration No.TN 22 CD 4619.

3. Before the Tribunal, on the side of the claimant, P.W.1 was examined and Exs.P1 to P5 were marked. On the side of the respondents, no witness was examined and no document was marked. The Tribunal, after analyzing the oral and documentary evidence available on record, awarded a compensation of Rs.1,07,200/- and directed the second respondent / Insurance Company to pay the same to the appellant / claimant.

4. The learned counsel appearing for the appellant submitted that the accident had taken place in the year 2015, and the Medical Board has assessed the disability of the appellant as 6%, however, the Tribunal has taken only a sum of Rs.4,000/- per percentage and the other heads awarded by the Tribunal are also on the lower side. Hence, he prays for enhancement of compensation.



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5. Per contra, the learned counsel appearing for the second respondent / Insurance Company submitted that, the Tribunal taking into consideration all the relevant documents, has rightly fixed the compensation, which does not require any interference. However, a sum of Rs.15,000/- and Rs.5,000/- awarded towards loss of amenities and mental agony is not reasonable and hence, the same may be deleted.

6. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

7. The factum of the accident is not disputed by the parties and so also the liability. Therefore, this Court is not entering into the said aspect. The only grievance of the claimant is with regard to the quantum of compensation awarded.



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8. In the instant case, the accident had taken place in the year 2015 and the Medical Board assessed the disability of the appellant as 6%. The Tribunal has chosen to adopt the percentage method and has calculated per percentage of disability at the rate of Rs.4,000/-. Hence, considering the increase in the cost of living, this Court is inclined to enhance the per percentage of disability at the rate of Rs.7,000/-. Accordingly, the compensation awarded under the head 'disability' is enhanced to Rs.42,000/- [7000 * 6]. The petitioner took treatment in Rajiv Gandhi Government General Hospital, Chennai, from 01.01.2015 to 05.01.2015 for five days and she was again admitted in the same hospital on 25.02.2015 to 24.03.2015 and she was diagnosed with fracture shaft of humerus. Considering the period of treatment and the nature of injuries, a sum of Rs.14,000/- awarded towards loss of income is on the lower side and the same is enhanced to Rs.30,000/-. Insofar as compensation awarded under the heads 'pain and sufferings', 'Transportation Expenses', 'Nutrition Expenses' and 'Attender Charges' is concerned, the same is on the lower side and the same is enhanced to Rs.40,000/-, Rs.10,000/-, Rs.30,000/- and Rs.20,000/-



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respectively. Further, this Court finds that there is no ground to award a sum of Rs.15,000/- and Rs.5,000/- towards loss of estate and mental agony and the same are hereby set aside. The compensation awarded under the head 'Damages to Clothes' is just and reasonable and does not require any interference.

9. In the above circumstances, the compensation awarded by the Tribunal under the below mentioned heads is modified as under:

<i>S.No</i>	<i>Head of Compensation</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
1	Disability (Rs.7,000/- * 6)	Rs.24,000/-	Rs.42,000/-
2	Medical Expenses	-	-
3	Loss of Income	Rs.14,000/-	Rs.30,000/-
4.	Pain and Suffering	Rs.15,000/-	Rs.40,000/-
5	Transportation Expenses	Rs.5,000/-	Rs.10,000/-
6	Nutrition Expenses	Rs.15,000/-	Rs.30,000/-
7	Damages to Clothes	Rs.1,000/-	Rs.1,000/-



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<i>S.No</i>	<i>Head of Compensation</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
8	Attender Charges	Rs.13,200/-	Rs.20,000/-
9	Loss of Amenities	Rs.15,000/-	-
10.	Mental Agony	Rs.5,000/-	-
	Total	Rs.1,07,200/-	Rs.1,73,000/-

10. In the result, this civil miscellaneous appeal is allowed in part and the compensation awarded by the Tribunal at Rs.1,07,200/- is hereby enhanced to Rs.1,73,000/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. The second respondent / Insurance Company is directed to deposit the entire award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.2771 of 2015 on the file of the Motor Accidents Claims Tribunal, IV Court of Small Causes, Chennai. On such deposit, the appellant is permitted to withdraw the award amount now determined by this Court, along with



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interest and costs, less the amount if any, already withdrawn, by making proper application before the Tribunal. No costs.

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NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

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To

1. The Motor Accidents Claims Tribunal,
IV Court of Small Causes, Chennai.

2. The Section Officer,
V.R. Section,
High Court, Chennai.



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This matter is listed today under the caption "for being mentioned" at the instance of the Registry.

2. It is brought to the notice of this Court by the Registry that, the interest for the default period which has not been granted, vide order of this Court dated 03.01.2025 has not been incorporated in the operative portion of the judgment dated 31.01.2025 in and by which the Civil Miscellaneous Appeal was partly allowed with a direction to the second respondent to deposit the entire award amount now determined by this Court with appropriate interest before the tribunal and therefore, necessary clarification is sought.

3. This Court perused the judgment dated 31.01.2025 and finds that there is no mentioning about the interest for the default period in the operative portion of the judgment dated 31.01.2025, though it was not awarded vide order dated 03.01.2025.



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4. In view of the same, Paragraph 10 of the judgment dated 31.01.2025 is recalled and shall stand replaced with the following paragraph:

“10. In the result, this civil miscellaneous appeal is allowed in part and the compensation awarded by the Tribunal at Rs.1,07,200/- is hereby enhanced to Rs.1,73,000/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. However, it is made clear that the appellant/claimant is not entitled for the interest for the default period. The second respondent / Insurance Company is directed to deposit the entire award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.2771 of 2015 on the file of the Motor Accidents Claims Tribunal, IV Court of Small



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Causes, 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 proper application before the Tribunal. No costs.”

5. Registry is directed to carry out the necessary correction as aforesaid in the judgment dated 31.01.2025 and issue fresh copy of the order to the learned counsel for the parties.

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