



C.M.A.No.45 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.45 of 2025

K.Vimala

... Appellant

Vs.

1.K.Knight Durai

2.The Manager,
National Insurance Company Limited,
Third Party Claim Office,
No.751, Mount Road,
Chennai-600 002.

... Respondents / Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 19.09.2023 made in M.C.O.P.No.4959 of 2015 on the file of the Motor Accidents Claims Tribunal (In the Special Sub Court-II of Small Causes) Chennai.



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For Appellant : Mr.S.Suriyaprakash
For Respondents : Mr.M.J.Vijayaraghavan
for R2
R1-Ex-parte

J U D G M E N T

The appellant / claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, (In the Special Sub Court-II of Small Causes), Chennai in M.C.O.P.No.4959 of 2015, dated 19.09.2023, has filed this appeal.

2. On 26.04.2015, at about 05.15 p.m., when the claimant was traveling as pillion rider in motorcycle bearing Reg.No.TN 02 BA 3251 at CTH Road Avadi Battalion gate from east to west, the first respondent's car bearing Reg.No.TN 20 BR 0529 came in a same direction in a rash and negligent manner and hit behind the claimant's motorcycle, due to which, the claimant sustained grievous injuries. The first respondent is the owner of the car and the second respondent is the insurer of the car. Under these circumstances, the claim petition came to be filed by the claimant before the



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सत्यमेव जयते
Tribunal seeking for compensation.
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3. Before the Tribunal, on the side of the claimant, P.W.1 and P.W.2 were examined and Exs.P1 to P10 were marked. On the side of the respondents, no witness was examined and no document was marked. The Disability Certificate of the petitioner issued by the Medical Board was marked as Ex.C1. 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 driver of the car. Having reached such a finding, the Tribunal proceeded to fix the total compensation at Rs.1,16,500/- under various heads. The above compensation was directed to be paid by the second respondent along with interest at 7.5% p.a.

4. The claimant, not being satisfied with the quantum of compensation awarded by the Tribunal, has filed this appeal seeking compensation.



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5. The learned counsel appearing for the appellant submitted that the Tribunal erred in not awarding any amount under the head of partial disability and the amount awarded under the other heads is also very meagre. Hence, the learned counsel for the appellant prays for enhancement of compensation.

6. The first respondent remained *ex-parte* before the Tribunal.

7. Per contra, learned counsel appearing for the second respondent / Insurance company submitted that the appellant sustained simple injury and a sum of Rs.10,000/- awarded towards loss of amenities for a minor injury is not reasonable and hence, the same may be deleted and the other heads awarded by the Tribunal are also on the higher side. Hence, he prays for dismissal of this appeal.

8. 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.



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9. In the instant case, the disability was not assessed by the Medical Board, hence, the Tribunal has not awarded any compensation under the head 'partial disability' and the same does not require any interference of this Court. The claimant underwent treatment as an inpatient from 27.04.2015 to 02.05.2015 and also proved that medical expenses to the tune of Rs.36,197/- was incurred. Hence, considering the nature of injuries suffered by the claimant and the period of treatment undergone, this Court is inclined to enhance the compensation under the heads 'Pain and Suffering', 'Attender Charges', 'Transportation' and 'Extra Nourishment' and accordingly, a sum of Rs.40,000/-, Rs.10,000/-, Rs.10,000/- and Rs.30,000/- is awarded under these heads respectively. This Court finds that there is no ground to award a sum of Rs.10,000/- towards loss of amenities and therefore, the same is hereby set aside. The amount awarded under the heads 'loss of income' and 'medical expenses' by the Tribunal is hereby confirmed.

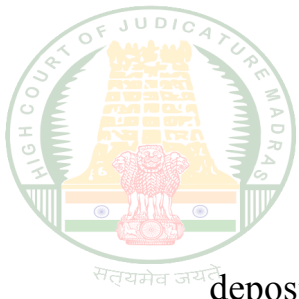
10. In the above circumstances, the compensation awarded by the Tribunal under the below mentioned heads is modified as under:



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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>
1	Partial Disability	-	-
2.	Pain and Suffering	20,000/-	40,000/-
3.	Loss of Income	34,500/-	34,500/-
4.	Medical Expenses	36,000/-	36,000/-
5.	Attender Charges	3,000/-	10,000/-
6.	Transportation	3,000/-	10,000/-
7.	Loss of Amenities	10,000/-	-
8.	Extra Nourishment	10,000/-	30,000/-
	Total	Rs.1,16,500/-	Rs.1,60,500/-

12. In the result, this Civil Miscellaneous Appeal is allowed in part and the compensation awarded by the Tribunal at Rs.1,16,500/- is hereby enhanced to Rs.1,60,500/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. The second respondent is directed to deposit the entire award amount now determined by this Court along with interest and costs, less the amount already



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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.4959 of 2015 on the file of the Motor Accidents Claims Tribunal (In the Special Sub Court No.II), 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. Insofar as the enhanced compensation is concerned, the claimant will not be entitled for interest for the period of delay of 133 days as was ordered by this Court in C.M.P.No.27574 of 2024, dated 17.12.2024. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. 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,
(In the Special Sub Court No.II), Chennai.

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



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M.DHANDAPANI, J.

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