



C.M.A.No.831 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.831 of 2021
and C.M.P.No.4790 of 2021

United India Insurance Co. Ltd.,
Office at 144-B, Kandasamy Shopping Complex,
Kalpana Road,
Udumalpet,
Tiruppur District.

...Appellant

Vs.

1.P.Muniysamy
2.M.Paulpandian

...Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 08.03.2019 and made in M.C.O.P.No.634 of 2017 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge Court, Erode.



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For Appellant : Mr.C.Paranthaman

For Respondents : No appearance

J U D G M E N T

This appeal is filed by the appellant Insurance Company challenging the judgment and decree passed by the Motor Vehicle Accidents Claims Tribunal, Special Subordinate Court, Erode in M.C.O.P.No.634 of 2017 dated 08.03.2019.

2.For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.

3.The petitioner is the claimant, the first respondent is the owner of the vehicle and the second respondent is the Insurance Company before the Tribunal.

4.The brief facts of the case are as follows:

According to the petitioner, on 18.06.2017 at about 10.30 a.m., the petitioner was riding a motorcycle bearing Registration No.TN 63 AF



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8212 on Pollachi to Kovai Road, from South to North direction, while the petitioner was proceeding near Malumichampatti, the first respondent drove the motorcycle bearing Registration No.TN.57 AT 2535 came from opposite direction in a rash and negligent manner and dashed against the petitioner's motorcycle. Due to the impact, the petitioner fell down and sustained bone fracture and grievous injuries. Soon after the accident, the petitioner was taken to Dr.Muthu's Hospital, Coimbatore and underwent treatment as an inpatient from 18.06.2017 to 25.06.2017. A case was registered in FIR No.169/2017 under Sections 279 & 337 IPC. The petitioner filed a claim petition before the Tribunal in M.C.O.P.No.634 of 2017, the Tribunal awarded a sum of Rs.6,19,200/- as compensation. Aggrieved by the same, the present appeal has been filed.

5.Learned counsel appearing for the appellant submitted that though the Medical Board assessed the disability and opined that the first respondent sustained 40% temporary disability, the compensation awarded by the Tribunal in respect of disability and loss of earning power is very excessive. Hence, he prayed for appropriate orders.



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6.Heard learned counsel appearing for the appellant and perused the materials available on record.

7.Though the notice has been served and the name of the respondents having been printed in the cause list, there is no representation on the side of the respondents either in person or through counsel. Considering the pendency of the appeal, this Court is inclined to dispose of the appeal based on the materials available on record.

8.The accident and the manner in which the accident happened are not disputed. This appeal has been filed questioning the quantum of compensation. Hence, there is no need for any discussion with regard to negligence.

9.Before the Tribunal, the petitioner was examined as PW1 and on the side of the petitioner, 19 documents were marked as Exs.P1 to P19. On the side of the respondents, no witness was examined and no



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document was marked. The certificate received from the District Medical Board was marked as Court document in Ex.C1.

10.The Tribunal after elaborately discussing the factual aspects awarded a sum of Rs.26,600/- for loss of partial income, Rs.3,000/- for transport expenses, Rs.6,000/- for extra nourishment, Rs.500/- for damages for clothes and articles, Rs.1,47,900/- for medical expenses, Rs.1,00,000/- for pain & suffering and others, Rs.3,35,200/- for disability and loss of earning power and arrived at a total compensation of Rs.6,19,200/- with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

11.The amount awarded under the heads loss of partial income, transport expenses, extra nourishment, damages for clothes & articles, medical expenses, pain & suffering in the opinion of this Court are just and reasonable. The amount awarded under the head disability and loss of earning is contrary to law laid by the Hon'ble Apex Court in the case of *Raj Kumar vs. Ajay Kumar* reported in *2011 1 SCC 343*, in the



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absence of any functional disability awarding compensation adopting the multiplier method is not sustainable, in the opinion of this Court is excessive and this Court is inclined to reduce the amount awarded under the said head. Accordingly, the amount awarded under the head disability and loss of earning is reduced to Rs.2,80,000/- from Rs.3,35,200/-.

12. Accordingly, the compensation awarded by the Tribunal is re-assessed as follows:

S.No.	Description	Amount awarded by Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1.	Loss of partial income	26,600/-	26,600/-
2.	Transport expenses	3,000/-	3,000/-
3.	Extra nourishment	6,000/-	6,000/-
4.	Damages for clothes and Articles	500/-	500/-
5.	Medical expenses	1,47,900/-	1,47,900/-
6.	Pain and suffering and others	1,00,000/-	1,00,000/-
7.	Disability and loss of earning power (40% x Rs.7,000/-)	3,35,200/-	2,80,000/-
	Total	Rs.6,19,200/-	Rs.5,64,000/-



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13.The claimant is entitled to a sum of Rs.5,64,000/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

14.The judgment and decree passed by the Motor Accident Claims Tribunal/Special Subordinate Court, Erode in M.C.O.P.No.634 of 2017 dated 08.03.2019, is modified to the above extent.

15.The appellant Insurance Company is directed to deposit the modified/enhanced award amount, if not deposited earlier before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment and permitted to withdraw the excess amount, if any. On such deposit being made, the first respondent/claimant is permitted to withdraw the amount along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal.



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16.The first respondent/claimant shall not be entitled to any interest for the period of delay, if any, in filing the appeal.

17.The Civil Miscellaneous Appeal is partly allowed with the above terms. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To

- 1.The Motor Accidents Claims Tribunal,
Special Subordinate Court, Erode.
- 2.The Section Officer,
VR Section,
High Court of Madras, Chennai – 600 104.



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M.DHANDAPANI, J.

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