



C.M.A.No.750 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 15.04.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.750 of 2025

Sathish Kumar

... Appellant

VS.

1.Joint Director of Health Services,
C/o G V K EMRI, Health Visitors Training Institute,
Govt. Kasthubai Gandhi Hospital,
Triplicane, Chennai – 600 005

2.National Insurance Co. Ltd.,
T.P. Cell: No.46, Moore Street,
Chennai - 1

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to allow the above Civil Miscellaneous Appeal and enhance the award in the order dated 29.02.2024 made in MCOP No.3526 of 2017, on the file of the Motor Accident Claim Tribunal/Special Sub Court No.1, Small Causes Court, Chennai.

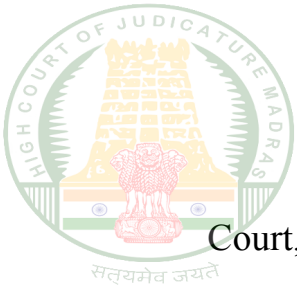
For Appellant : Mr.T.Soundra Sozhan

For R1 : Mr.C.Sathish
Government Advocate

For R2 : Mr.S.Arunkumar

J U D G M E N T

Not satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal/Special Sub Court No.1, Small Causes



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Court, Chennai in M.C.O.P.No.3526 of 2017, dated 29.02.2024, the

injured/claimant has come before this Court.

2. According to the appellant/claimant, on 17.03.2017, he was travelling in Ambulance Van bearing Registration No.TN-28-G-0361 as Emergency Medical Technician from Cuddalore to Virudhachalam. The vehicle was driven by its driver in a rash and negligent manner and as a result of the negligent driving, the vehicle dashed against a tree on the left hand side of the road and capsized. As a result of accident, the claimant sustained multiple grievous injuries all over the body and admitted in hospital for taking treatment. As a result of the accident, the claimant lost his complete vision in left eye and the vision in the right eye was reduced by 60%. Hence, the claim petition was filed seeking compensation of Rs.1,00,00,000/-.

3. The 1st respondent remained *exparte* before the Tribunal and the claim petition was contested only by the insurer of the offending vehicle by denying the negligence on the part of the driver of the 1st respondent's ambulance.



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4. Before the Tribunal, the claimant was examined as PW.1 and 27 documents were marked as Exs.P1 to P27 on behalf of the claimant. On behalf of the respondents, no witness was examined and no document was marked. The Disability Certificate issued by the Medical Board to the claimant was marked as Ex.C1.

5. The Tribunal based on the evidence available on record, came to the conclusion that the accident had occurred only due to the rash and negligent driving of ambulance by driver of the 1st respondent. The compensation payable to the claimant was quantified at Rs.22,39,000/-. Not satisfied with the quantum of compensation, the injured/claimant has come before this Court.

6. The learned counsel appearing for the appellant as well as learned counsel appearing for the 2nd respondent-Insurance Company have not advanced any arguments on the questions of negligence and liability. Therefore, facts necessary to decide those questions are not discussed in this judgment.



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7. The learned counsel appearing for the appellant/claimant would submit that the Competent Medical Board assessed the disability suffered by the claimant at 86% and the Tribunal without any reason reduced the disability at 70%. The learned counsel further submitted that notional income of Rs.10,500/- fixed by the Tribunal is very meagre one and the same requires enhancement.

8. The learned counsel appearing for the 2nd respondent/Insurance Company would submit that every disability suffered by the injured will not result in functional disability. Therefore, taking into consideration the facts and circumstances of the case, the Tribunal fixed functional disability at 70% and the same requires no interference. He also submitted that the notional income fixed by the Tribunal is fair and reasonable in the facts and circumstances of the case.

9. The injured/claimant was examined by Competent Medical Board and Disability Certificate was marked as Ex.C1. A perusal of the Disability Certificate issued by the Medical Board would suggest that the claimant suffered disability at 86%. It is also noted that the claimant suffered



Neurological, Ophthalmological and Orthopaedic disabilities. Ex.P27-

WEB COPY Disability Certificate issued by Assistant Civil Surgeon, Government Head Quarters Hospital, Cuddalore, would indicate that due to the accident the claimant suffered disc pallor in right eye and he suffered optic atrophy in left eye and his left side vision is completely lost. It is also noted that in his right eye, he lost the vision to the extent of 60%.

10. A perusal of Discharge Summary-Ex.P6 would indicate that the claimant suffered fracture injuries in his face, fracture in fibula, fracture in left distal humerus and compound fracture of proximal left ulna etc. The details of the multiple fractures suffered by the claimant are mentioned as follows:-

- “(i) Severe Head injury – Bilateral frontal, orbitofrontal and left temporal region, Parenchymal resolving contusion. Minimal inter hemisphere subdural hemorrhage. Mild cerebal edema.*
- (ii) Facial injury – Fracture in both frontal bones, involving anterior and posterior wall of bilateral frontal sinus. Fracture in bilateral anterior and posterior wall of maxillary sinus. Fracture in roof, medial wall and floor of orbits bilaterally. Fracture in nasal septum and ethmoid bone. Fracture in medial and lateral pterygoid plates bilaterally.*



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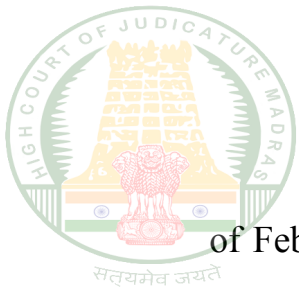
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Fracture in anterior and medial wall of sphenoid sinus extending to body of sphenoid. Fracture in greater wing of sphenoid squamous part of temporal bone on left side. Fracture in left zygomatic arch.

- (iii) Severely Compound comminuted intra articular fracture of left distal femur*
- (iv) Fracture of posterior and medial malleolus with left distal 1/3rd shaft fibula with ankle subluxation.*
- (v) Compound Fracture of left distal humerus with intercondylar extension*
- (vi) Compound Fracture of proximal 1/3rd left ulna*
- (vii) Admitted with collapse of lung on both sides”*

11. Ex.P17, letter issued by employer of the claimant would indicate that after accident the claimant could not report to his duty for nearly 8 months. Taking into consideration the multiple fracture injuries suffered by the claimant and the loss of vision in left eye and partial loss of vision in other eye, this Court feels that the Tribunal was not justified in reducing the disability fixed by the Competent Medical Board. Therefore, as per Ex.C1- Disability Certificate issued by the Medical Board, this Court is inclined to fix the disability suffered by the claimant at 86%.

12. As per Ex.P16-Salary Slip produced by the claimant for the month



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of February-2017, the claimant received a salary of Rs.12,150/-. Therefore, the Tribunal was not justified in fixing the notional income at Rs.10,500/-.

The income of the claimant is increased to Rs.12,150/-. As per Ex.P26-Aadhaar Card of the claimant, his age was fixed at 28 years. Therefore, the claimant is entitled to 40% enhancement towards future prospects. The applicable multiplier is 17. Therefore, the amount payable to the claimant under the head disability is quantified at Rs.29,84,234/- ($12,150 \times 1.4 \times 12 \times 17 \times 86/100$).

13. Taking into consideration the prolonged hospitalisation and nature of injuries suffered by the claimant, the amount awarded by the Tribunal under the head pain and sufferings is affirmed. The amount awarded by the Tribunal under the head transportation charges is increased to Rs.20,000/-. The amount awarded by the Tribunal under the head extra nourishment is increased to Rs.20,000/-. The amount awarded by the Tribunal under the head loss of amenities is increased to Rs.40,000/-. The amount awarded by the Tribunal under the head attender charges is affirmed.



WEB COPY 14. In view of the discussions made earlier, the award passed by the Tribunal is modified as follows:-

Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court	Remarks
1.	Disability	Rs.20,99,160/-	Rs.29,84,234/-	Enhanced
2.	Pain and Sufferings	Rs.60,000/-	Rs.60,000/-	Confirmed
3.	Transportation	Rs.8,000/-	Rs.20,000/-	Enhanced
4.	Extra Nourishment	Rs.15,000/-	Rs.20,000/-	Enhanced
5.	Attender Charges	Rs.26,400/-	Rs.26,400/-	Confirmed
6.	Loss of Amenities	Rs.30,000/-	Rs.40,000/-	Enhanced
	Total Compensation	Rs.22,38,560/- rounded off to Rs.22,39,000/-	Rs.31,50,634/-	Enhanced by Rs.9,11,634/-

15. Accordingly, the award passed by the Tribunal is increased to Rs.31,50,634/- from Rs.22,39,000/-. The 2nd Respondent/Insurance Company is directed to deposit the enhanced award amount of Rs.31,50,634/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, to the credit of M.C.O.P.No.3526 of 2017 on the file of the Motor Accident Claims Tribunal/Special Sub Court No.1, Small Causes Court, Chennai, within a



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period of six weeks from the date of receipt of copy of this judgment. On

such deposit, the claimant is permitted to withdraw the award amount by making formal application before the Tribunal.

16. With the above direction, the Civil Miscellaneous Appeal is partly allowed. No costs.

15.04.2025

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

To

1.The Motor Accident Claim Tribunal/Special Sub Court No.1,
Small Causes Court, Chennai.

2.Joint Director of Health Services,
C/o G V K EMRI, Health Visitors Training Institute,
Govt. Kasthubai Gandhi Hospital,
Triplicane, Chennai – 600 005

3.National Insurance Co. Ltd.,
T.P. Cell: No.46, Moore Street,
Chennai - 1

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



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S.SOUNTHAR, J.

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