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C.M.A.No.226 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.226 of 2025

Murugan

... Appellant

Vs.

1.Vijayamurugan

2.Srividhya

3.The United India Insurance Co. Ltd,
D.No.37F, 1st Floor, Muniyappan Kovil Thottam,
Boomrang Ice Cream Parlour Upstairs,
Sathy Main Road, Ganapathy, Coimbatore – 641 006.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the order in M.C.O.P.No.1417 of 2022 dated 03.01.2024 on the file of the Motor Accident Claims Tribunal / Special Subordinate Judge No.I, Salem.

For Appellant : Mr.G.Paraneedharan

For Respondents : Notice dispensed with [R1 & R2]
Mr.J.Chandran [R3]



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JUDGMENT

WEB COPY The above appeal is filed by the petitioner/claimant seeking an enhancement of the compensation awarded by the Motor Accident Claims Tribunal/Special Subordinate Judge, Salem in M.C.O.P.No.1417 of 2022 dated 03.01.2024.

2. The case of the appellant/claimant is that, on 27.09.2022 at about 03.30 p.m., when he was riding his motorcycle bearing Regn.No.TN-30-AD-0102 on Kuranguchavadi – AVR Roundana Service Road, near Vishwas Tours & Travels, a car bearing Regn.No.TN-38-AE-0275, belonging to the 2nd respondent and insured with the 3rd respondent, driven by the 1st respondent in a very rash and negligent manner and dashed against the motorcycle of the deceased, thereby, he sustained multiple grievous injuries. Therefore, the appellant had filed a claim petition claiming a sum of Rs.15,00,000/- for the injuries sustained by him in the said road accident.

3. Before the Tribunal, the appellant had examined himself as P.W.1 and marked 15 documents viz., Ex.P.1 to Ex.P.15. No witnesses were examined nor any documents were marked on the side of the



respondents. Apart from that, one court document was marked as Ex.C.1.

After adjudication, the Tribunal awarded a sum of Rs.2,39,375/- as compensation to the appellant. Not satisfied with the same, the appellant has preferred the present appeal seeking enhancement.

4. Learned counsel appearing for the appellant submitted that at the relevant point of time, per percentage of disability is Rs.9,000/-, however, the Tribunal had erroneously awarded a sum of Rs.75,000/- by fixing a sum of Rs.5,000/- per percentage of disability and disability at 15%, which is not sustainable and the same requires to be re-considered by this Court. He further submitted that the compensation awarded by the Tribunal under the other heads is meagre, which also requires to be enhanced. Accordingly, he prays for appropriate enhancement in favour of the appellant.

5. Per contra, learned counsel appearing for the third respondent/insurance company submitted that, the Tribunal has considered all the materials in proper perspective and awarded compensation under the various heads, which are just and reasonable and the same does not require any enhancement. Accordingly, he prays for dismissal of the appeal.



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6. Heard the learned counsel appearing for the appellant and the learned counsel appearing on behalf of the third respondent and perused the materials available on record.

7. The factum and manner 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 appellant/claimant is with regard to the quantum of compensation awarded by the Tribunal. In this regard, this Court perused Ex.C.1, which is the disability certificate issued by the Medical Board and the same reveals that the appellant had suffered permanent disability of 15%. By considering the said certificate, the Tribunal, had erroneously fixed a sum of Rs.5,000/- per percentage of disability and awarded a sum of Rs.75,000/- towards permanent disability. As per the existing law at the relevant point of time, the Tribunal ought to have fixed a sum of Rs.9,000/- per percentage of disability. Hence, this Court is inclined to fix a sum of Rs.9,000/- per percentage of disability. Therefore, the compensation awarded by the Tribunal towards permanent disability stands enhanced to a sum of Rs.1,35,000/- (15 x Rs.9,000/- = Rs.1,35,000/-).



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8. Further, the Tribunal had awarded a sum of Rs.40,000/- towards pain and sufferings; Rs.24,000/- towards loss of income; Rs.59,375/- towards medical expenditure; Rs.10,000/- towards transportation; Rs.10,000/- towards extra nourishment; Rs.10,000/- towards attender charges; Rs.1,000/- towards damages to clothes and Rs.10,000/- towards loss of amenities. This Court finds that the compensation awarded under the heads loss of income, medical expenditure, transportation, attender charges and damages to clothes are just and reasonable and the same is confirmed. However, insofar as the compensation awarded towards pain and sufferings and extra nourishment are concerned, this Court feels that the same is on the lower side and accordingly, the compensation awarded under the said heads are enhanced to a sum of Rs.75,000/- and Rs.25,000/- respectively.

9. Insofar as the compensation awarded under the head loss of amenities, no compensation can be awarded under such head as the said head is not conventional head, which attract any compensation. Therefore, the compensation awarded under the said head is accordingly set aside.



10. In view of the above, the compensation awarded by the

WEB CO Tribunal is modified as under :-

<i>S. No.</i>	<i>Description</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
1	Pain and sufferings	40,000/-	75,000/- (enhanced)
2	Loss of income	24,000/-	24,000/-
3	Medical expenditure	59,375/-	59,375/-
4	Transportation	10,000/-	10,000/-
5	Extra nourishment	10,000/-	25,000/- (enhanced)
6	Attender charges	10,000/-	10,000/-
7	Damages to clothes	1,000/-	1,000/-
8	Loss of amenities	10,000/-	---
9	Permanent disability (15%) (15 x Rs.9,000/-)	75,000/-	1,35,000/-
	Total	2,39,375/-	3,39,375/-

11. Accordingly, this Civil Miscellaneous Appeal is partly allowed and the impugned award is modified, enhancing the compensation amount from **Rs.2,39,375/-** to **Rs.3,39,375/-**. The third respondent/Insurance Company is directed to deposit the compensation amount, awarded by this Court, to the credit of M.C.O.P.No.1417 of 2022 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six weeks (6) from



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the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellant/claimant through RTGS within a period of two (2) weeks thereafter upon production of proof with regard to payment of Court fee on the enhanced compensation. The appellant/claimant is directed to pay necessary additional Court fee on the enhanced compensation amount. It is made clear that the appellant will not entitled to any interest for the delay period. There shall be no order as to costs in the present appeal.

29.01.2025

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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To

The Motor Accident Claims Tribunal / Special Subordinate Judge No.I,
Salem.



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M.DHANDAPANI, J.

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