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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2025

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.2279 of 2025

and

C.M.P.No.19238 of 2025

The Oriental Insurance Company Ltd.,
Motor T.P.Hub, Oriental House,
2nd floor, No.115, Broadway,
Chennai – 600 108

.. Appellant/2nd respondent

Vs.

1. Sundaramurthy
2. Ramkumar

...Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 05.04.2024 made in M.C.O.P.No.120 of 2021 on the file of Motor Accidents Claims Tribunal, (Principal Sub Court) Vriddachalam.

For Appellant : Mr.D.Bhaskaran

For Respondents : Mr.S.Udhayakumar for R1

JUDGMENT

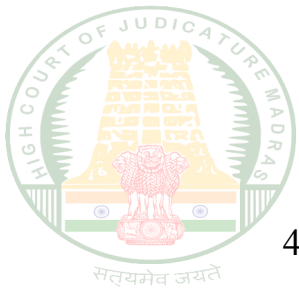
This Civil Miscellaneous Appeal has been filed against the award dated 05.04.2024 made in M.C.O.P.No.120 of 2021 on the file of Motor Accidents Claims Tribunal, (Principal Sub Court) Vriddachalam.



WEB COPY 2. The brief facts of the case are as follows:

On 28.01.2019 at about 6.50 p.m., when the first respondent/claimant was travelling from west to east on his scooty towards Arasi Medical Shop in Periyar Nagar, the driver of the second respondent vehicle bearing Regn.No.TN-91- X-5504, drove his vehicle, with high speed and thereby caused an accident by dashing against the vehicle of the claimant, due to which the first respondent sustained severe head injuries and is currently bedridden, unconscious, unable to speak or eat on his own. Claiming that the rider of the second respondent's vehicle, is responsible for the accident, the claimant has filed a claim petition before the Tribunal claiming a sum of Rs.70,00,000/-. The Tribunal after adjudicating the issues with reference to the documents and evidences, has awarded a total compensation of Rs.37,11,340/-

3. The appellant/Insurance Company, unsatisfied with the quantum of compensation awarded by the Tribunal under the impugned award, has preferred this appeal seeking modification.



4. Heard the learned counsel for the appellant and learned counsel for

the first respondent and perused the materials available on record.

5. The learned counsel appearing for the Appellant/Insurance Company submitted that the Tribunal erred in granting huge sum of Rs.37,11,340/- as compensation. It has also failed to note the age of the claimant is 71 years at the time of accident and he drive the motor cycle without driving license and without wearing helmet and considering the same, the Tribunal ought to have held that the claimant is also contributed to the accident. The Tribunal has failed to note that no medical evidence or no prior permission obtained or guardian application to represent son of the injured claimant to proceed the claim. After initial course of treatment, the claimant has not taken any subsequent in-patient treatment. The evidence of PW1 that the claimant confined to bed is false. It has erred in fixing the age of the claimant as 65 years inspite of the fact as per Ex.P10. The Tribunal erred in fixing income of the claimant as Rs.15000/- p.m., It failed to note that the assessed disability by the Medical Board is only physical disability and the claimant has not suffered any functional disability. The Tribunal should not mechanically apply the multiplier method of calculation. The Tribunal failed to note that



only percentage method of calculation warranted. It erred in granting Rs.12,29,340/- without any proper adjudication inspite of the fact that entire medical expenses incurred at Kavery Hospital was reimbursed. The Tribunal erred in granting huge sum on various heads. Hence, he prayed to modify the compensation.

6. Per contra, the learned counsel appearing for the first respondent has submitted that the compensation claimed by the appellant for modification is baseless. He further submitted that the Tribunal after analysing the evidences on record, has rightly awarded the compensation to the claimant and hence, the award passed by the Tribunal does not warrant any interference by this Court. Hence, he prays for dismissal of the appeal.

7. On perusal of records, it is seen that the accident had happened due to the rash and negligent driving of the rider of the motor cycle bearing Regn.No.TN-91-X-5504 and due to the said accident, the brain shell was broken and there is leakage of blood from the brain. However there is no proof that the claimant was bed ridden. At the time of accident, the age of the claimant is 71 years which was evidenced from Exs.P1, P10, P11, P12, P13.



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Considering the age of the injured claimant as 71 years, the multiplier to be adopted for calculation of loss of income is fixed at '5'. Thus, the loss of income is modified to Rs.8,10,000/- (15000 x 12 x 5 x 90%). There is no proof for income, age and avocation of the injured claimant. The claimant has suddenly stopped his scooty and also not possess valid fitness certificate to drive the scooty. Hence, the claimant is also contributed to the accident. It is submitted that the accident is of the year 2019 and the claimant was earning Rs.15000/- per month, however, no income proof has been produced to substantiate their claim. Therefore, this court is inclined to modify the compensation as Rs.3,00,000/-, Rs.2,00,000/- and Rs.1,00,000/- respectively with regard to Attender Charges, Extra Nourishment and Future medical and maintenance expenses respectively.

8. Insofar as the other heads such as pain and sufferings, medical expenses, transportation expenses, damages to clothes are concerned, the Tribunal has granted a just and fair compensation and hence, they do not call for any interference of this court and the same remains unaltered.



9. In the light of the above discussion, the compensation awarded by

the Tribunal is modified as follows:

<i>Sl.No.</i>	<i>Head</i>	<i>Compensation awarded by the Tribunal</i>	<i>Compensation awarded by this Court</i>
1.	Loss of income	11,34,000/-	8,10,000/-
2.	Pain and sufferings	2,00,000/-	2,00,000/-
3.	Medical Expenses	12,29,340/-	12,29,340/-
4.	Attender Charges	4,16,000/-	3,00,000/-
5.	Extra Noursishment Expenses	4,80,000/-	2,00,000/-
6.	Future medical expenses and maintenance charges	2,00,000/-	1,00,000/-
7.	Damages to clothes	2,000/-	2,000/-
	Total	37,11,340/-	28,41,340/-

Rounded off to Rs.**28,41,500/-**

10. Thus, the claimant/first respondent is entitled to the modified compensation of **Rs.28,41,500/- (Rupees Twenty Eight Lakhs Forty One Thousand and Five Hundred only)**

11.The Civil Miscellaneous Appeal is partly allowed. Consequently, connected miscellaneous petition is closed. No costs.

12. The appellant is directed to deposit the modified compensation as



ordered above, less the amount if any already deposited, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant / first respondent is permitted to withdraw the modified award amount, less the amount already withdrawn, if any, by filing necessary application before the Tribunal. Other aspects of the order of the Tribunal remains the same.

26.08.2025
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Index : Yes

Internet : Yes

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To

1.The Motor Accidents Claims Tribunal,
(Principal Sub Court) Vriddachalam.

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

T.V.THAMILSELVI.,J



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