



C.M.A.(MD) No.198 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.01.2025

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.(MD)No.198 of 2023

A.Palavesam

... Appellant/Petitioner

vs.

1.S.Siva Sathiya Moorthy

2.United India Insurance Company Limited,
Through its Divisional Manager,
No.1,Post Office Road,
Palayamkottai,
Tirunelveli – 627 002.

3.United India Insurance Company Limited,
Through its Branch Manager,
No.37/2, Mattappa Street,
Neel Complex, 2nd Floor,
Tenkasi – 627 811.

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1983, against judgment and decree dated 22.09.2022 passed in M.C.O.P.No.115 of 2021 on the file of the Motor Accidents Claims Tribunal, Additional Sub Court, Tirunelveli.



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For appellant : Mr.T.Selvakumaran
For Respondents
For R1 : No appearance
For R2 : Mr.C.Jawahar Ravindran
For R3 : Mr.J.S.Murali

J U D G M E N T

Not being satisfied with the award dated 22.09.2022 passed in M.C.O.P.No.115 of 2021 by the Motor Accidents Claims Tribunal/ Additional Sub Court, Tirunelveli, the claimant herein has preferred this appeal for enhancement of compensation.

2. Heard the arguments of the learned counsel for the appellant and the learned counsel for the respondents 2 and 3 and perused relevant records.

3. Upon consideration, the Tribunal has granted a sum of Rs.2,50,000/- for the claimant and the details of the compensation under different heads are given hereunder:



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Sl. No.	Description	Amount awarded by the Tribunal
1	For loss of future income	Rs.1,60,000/-
2	For loss of amenities	Rs.10,000/-
3	For pain and sufferings	Rs.60,000/-
4	For extra nourishment	Rs.10,000/-
5	For transport expenses	Rs.10,000/-
Total		Rs.2,50,000/-

4. It has come on record through the evidence of P.W. 1/claimant that on 05.08.2020, while he was travelling as pillion with his friend Lakshmanan in his two wheeler bearing registration No.TN-67-AF-5513, along Tenkasi-Kadayam main road, a TATA Indica car bearing registration No.TN-72-AJ-4821, which came in a rash and negligent manner, hit upon the two wheeler. Due to the said accident, he suffered fracture below the right knee, both bone fracture of left leg, fracture of right femur besides injuries on the whole body.

5. On the next date of accident i.e.,06.08.2020, he was admitted as inpatient at Tirunelveli Government Hospital and he underwent surgery on his right leg and got discharged on 10.08.2020. Again, he was admitted in the same hospital on



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02.09.2020, where he underwent surgery over the right leg on 15.09.2020 by fixing implants, and he got discharged on 20.09.2020 (Ex.P2). Once again, he was admitted in the same hospital on 16.02.2022, where implants were removed on 16.02.2022 and discharged on 25.02.2022. The Medical Board has assessed his disability at 40% (Ex.C1). The Tribunal has granted Rs.4,000/- per percentage and for the partial permanent disability, an amount of Rs,1,60,000/- was granted.

6. In consideration of the fractures suffered and the surgeries undergone by him as mentioned supra, to meet the ends of justice, per percentage Rs.6,000/- is granted, as held by the Hon'ble Division Bench of this Court in ***Future General India Insurance Company Limited vs. Manivannan in C.M.A.(MD)No.3334 of 2021 dated 15.06.2022***. Hence, for loss of income, an amount of Rs.2,40,000/- is granted. For loss of amenities, and for transport expenses, an amount of Rs.20,000/- under each head are granted in addition to the amount already granted by the Tribunal. For attendant charges, an amount of Rs.20,000/- is granted. For extra nourishment, an amount of Rs.10,000/- is granted in addition to the



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amount already granted by the Tribunal. Hence, the compensation awarded by the Tribunal is re-worked and tabulated as given hereunder:

S. No	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For loss of income	Rs.1,60,000/-	Rs. 2,40,000/-	Enhanced
2	For loss of amenities	Rs. 10,000/-	Rs. 30,000/-	Enhanced
3	For pain and sufferings	Rs. 60,000/-	Rs. 60,000/-	Confirmed
4	For extra nourishment	Rs. 10,000/-	Rs. 20,000/-	Enhanced
5	For transport expenses	Rs. 10,000/-	Rs. 30,000/-	Enhanced
6	For attendant charges	---	Rs. 20,000/-	Granted
	Total	Rs.2,50,000/-	Rs.4,00,000/-	Enhanced by Rs.1,50,000/-

7. In the result,

(i) The Civil Miscellaneous Appeal stands partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.2,50,000/- to Rs.4,00,000/-.

(iii) The respondents 2 and 3/Insurance Company are directed to deposit the enhanced compensation amount of Rs. 4,00,000/- (less the amount already deposited if any) with interest



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at 7.5% p.a. from the date of filing of the claim petition till the date of realisation to the credit of M.C.O.P.No.115 of 2021 on the file of Motor Accidents Claims Tribunal, Additional Sub Court, Tirunelveli, within a period of eight (8) weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the claimant/appellant is permitted to withdraw the enhanced compensation amount with interest, after adjusting the amount, if any already withdrawn by filing necessary application before the Tribunal.

(v) The claimant/appellant is directed to pay the Court fee for the enhanced compensation amount, if required.

(vi) The Tribunal below shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimant.

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(2/2)

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
apd



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1.The Additional Sub Judge,
The Motor Accidents Claims Tribunal,
Additional Sub Court,
Tirunelveli.

2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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R.KALAIMATHI,J

apd

Pre-delivery order made in
C.M.A.(MD) No.198 of 2023

.01.2025
(2/2)