

C.M.A.(MD)No.1465 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED : 05.03.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.1465 of 2024

Balamugilan

... Appellant

Vs.

1. Selvaraj

2. The New Indian Assurance Co. Ltd.,
Rep. By its Regional Manager,
BSNL Building,
70 feet Road, Ellisnagar,
Madurai.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to enhance the award passed in M.C.O.P.No.99 of 2021 dated 09.10.2023 on the file of the Motor Accidents Claims Tribunal / Chief Judicial Magistrate Court, Ramanathapuram.



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For Appellant : Mr.M.Iniyavan

For R-1 : No appearance

For R-2 : Mr.A.Ilango

JUDGMENT

This Civil Miscellaneous Appeal has been filed challenging the award passed in M.C.O.P.No.99 of 2021 dated 09.10.2023 on the file of the Motor Accidents Claims Tribunal / Chief Judicial Magistrate Court, Ramanathapuram.

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

3. The brief case in a nutshell are as follows:

(i) The petitioner is the claimant / injured. The first respondent is the owner of the vehicle and the second respondent is the Insurance Company.



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On 28.11.2020 at about 18.00 hours, the petitioner was riding his two-wheeler bearing Registration No.TN-65-AE-4655 along the Thondi to Kadukaloor, ECR Road, proceeding from north to south direction. While nearing Kadukaloor Bridge, near Kadukaloor Vilakki, the first respondent's vehicle, an Innova Car bearing Registration No.TN 73 C 0222, came in the same direction in a rash and negligent manner and dashed behind the petitioner's vehicle. As a result of which the petitioner sustained multiple injuries all over the body and was immediately taken to Siddharth Hospital, Ramanathapuram, where he was admitted as inpatient from 28.11.2020 to 09.12.2020 and underwent multiple surgeries.

(ii) An FIR in Crime No.313 of 2020 came to be registered by the Thiruppalaikudi Police Station for the offence under Section 279 and 337 of IPC. Seeking to compensate for the grievous injuries sustained by him, the claimant / injured has laid the M.C.O.P before the Tribunal..

(iii) The injured himself was examined as P.W.1 and Ex.P.1 to Ex.P.15 were marked. On the side of the respondents, two witnesses were marked as R.W.1 and R.W.2 and three documents were marked as Ex.R.1 to Ex.R.3. The disability certificate was marked as Ex.C.1.

(iv) On the basis of the arguments made by both parties, the



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evidence deposited and the documents marked, the Tribunal fixed the disability to 20% on the basis of the certificate of disability marked as Ex.C.1 and proceeded to calculate the partial disability with a sum of Rs.5000/- for each percentage of disability and awarded a total compensation of Rs.3,84,707/-. Challenging the same,, the petitioner / injured has filed the present appeal seeking enhancement of compensation

4. The learned Counsel appearing for the appellant submitted that the compensation awarded by the Tribunal at Rs.5000/- per percentage of disability is extremely low and the Tribunal ought to have fixed the same as Rs.7000/-. This Court has referred a judgment in the case of ***Sidram Vs. The Divisiona Manager, United India Insurance Co. Ltd., and antoher in S.L.P.(Civil) No.19277 of 2018*** and passed an order by calculating every percent of disability with an amount of Rs.7000/- and required this Court to adopt the same. I was also pointed out that though the petitioner / claimant was hospitalized for a period of one month and thereafter, continued to undergo follow-up treatment, no amount was awarded under the head temporary loss of income. Accordingly, the learned Counsel prayed for enhancement of the compensation awarded by the Tribunal.



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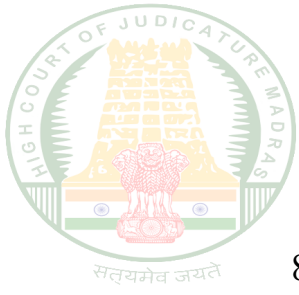
5. Per contra, the learned Counsel appearing for the Insurance Company submitted that the Tribunal had dealt with the case appropriately on the basis of the evidence and other documents marked before the Tribunal, and therefore, the learned Counsel pressed for dismissal of the appeal.

6. However, I am of the considered view that the amount of Rs. 5000/- calculated for every percentage of partial disability is extremely low and adopting the mandate of the aforesaid judgment, the award under the head of partial disability is enhanced to Rs.1,40,000/- (20% x Rs.7000/-). The petitioner was working as a part time employee in a private company earning Rs.15,000/- per month. Since he has not filed any proof in that regard, taking Rs.8,000/- as the notional income of the petitioner, Rs. 16,000/- is granted under the head of temporary loss for a period of two months. Considering all the above circumstances, the award passed by the Tribunal is modified as follows:



S. No.	Description	Amount awarded by the Tribunal	Amount awarded by this Court	Award confirmed or enhanced
1.	Partial Disability (20% x Rs.7000/-)	Rs.1,00,000/-	Rs.1,40,000/-	Enhanced
2.	Temporary loss of income	Not granted	Rs.16,000/-	Granted
3.	Medical Expenses under Ex.P.9, Ex.P.10	Rs.2,34,707/-	Rs.2,34,707/-	Confirmed
4.	Pain and Suffering	Rs.25,000/-	Rs.25,000/-	Confirmed
5.	Extra nourishment	Rs.10,000/-	Rs.10,000/-	Confirmed
6.	Attendant Charges	Rs.10,000/-	Rs.10,000/-	Confirmed
7.	Transport Charge	Rs.5,000/-	Rs.5,000/-	Confirmed
	Total	Rs.3,84,707/-	Rs.4,40,707/-	Enhanced by Rs. 56,000/-

7. In the result, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.3,84,707/- (Rupees Three Lakh Eighty Four Thousand Seven Hundred and Seven only) is hereby enhanced to Rs.4,40,707/- (Rupees Four Lakh Forty Thousand Seven Hundred and Seven only). The appellant / claimant is entitled to get compensation, as per the apportionment made by the Tribunal.



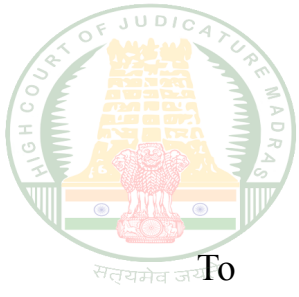
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8. The first respondent is directed to deposit the compensation amount with accrued interest and costs to the credit of M.C.O.P.No.99 of 2021 on the file of the Motor Accidents Claims Tribunal cum Chief Judicial Magistrate Court, Ramanathapuram, within a period of four weeks (4) from the date of receipt of copy of this judgment, less the amount, if any already deposited. On such deposit, the claimant is permitted to withdraw the said amount, less the amount, if any already withdrawn, by making necessary application before the Tribunal. Despite the name of the first respondent is printed, no one appeared for the first respondent. No costs.

05.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
jbr



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To

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1. The Chief Judicial Magistrate (MACT),
Ramanathapuram.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.,

jbr

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