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C.M.A(MD)No. 433 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On	:	08.08.2025
Pronounced On	:	27.10.2025

CORAM :

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

C.M.A.(MD).No.433 of 2025

and

CMP(MD)No.10931 of 2025

P.Nandhakumar

... Appellant/Petitioner

Vs.

1.The Proprietor

Sri Gokulam H.P.Gas Agencies,
Srivilliputhur.

... 1st Respondent/1st Respondent

2.The Branch Manager,

The New India Assurance Company Ltd.,,
1419, Tenkasi Road,
Rajapalayam,
Virudhunagar District.

... 2nd Respondent/2nd Respondent

PRAYER : Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree passed by the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Srivilliputhur and enhance the compensation in MCOP.No.69 of 2023 dated 10.02.2025.

For Appellant : Mr.S.Anandhakumar

For R1 : Mr.D.Deepak Arasu

For R2 : Mr.D.Sivaraman



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ORDER

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The appellant/claimant has filed this Civil Miscellaneous Appeal seeking enhancement by setting aside the judgment and decree passed by the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Srivilliputhur, in MCOP.No.69 of 2023 dated 10.02.2025.

2. The appellant is a diploma holder in Civil Engineering. He was working as a centring contractor, and 20 persons were working under him. By doing the contract profession, he was earning a sum of Rs.60,000/- per month. It is a case of a fatal accident, which took place on 06.01.2021, at about 08.20 a.m., when the appellant, along with one Palanikumar, was proceeding towards Srivilliputhur for work in TVS XL 100 bearing Reg.No.TN-84-D-1989 from Rajapalayam to Srivilliputhur Main Road on South - North road, near the Venkateswara Milk-Peda shop, the driver of the first respondent drove a Ashok Layland DOST LS bearing Reg.No.TN-84-F-6669, which came in front of the two-wheeler in a rash and negligent manner and suddenly turned from west to east and dashed against the two-wheeler, due to which The appellant sustained injuries in his right eye and forehead, and he was admitted to the Government Hospital, Srivilliputhur. Thereafter, he was shifted to Rajaji Government Hospital, Madurai, for



further treatment. There he has been taking treatment from 06.08.2021 to 11.01.2021 as an inpatient. He underwent surgery in his right eyelid due to RTA polytrauma on 08.01.2021. Even after the operation, he lost his eyesight completely, and thereby, he sustained 37% permanent disability. Further, he sustained depressed injuries on his forehead and suffered serious injuries over his right knee.

3. Hence, a case in Crime No.6 of 2021 was registered against the driver of the lorry for the offences under Sections 279, 337 and 338 of I.P.C., by Lalgudi Police. The appellant filed a claim petition in M.C.O.P.No.69 of 2023 before the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Srivilliputhur seeking compensation of Rs.50,00,000/- (Rupees Fifty Lakhs Only).

4. The respondents 1 & 2 filed separate counters denying the negligence and also the monthly income of the appellant.

5. Before the Tribunal, on the side of the claimant, the claimant examined himself as P.W.1 and marked 15 documents as Exs.P.1 to P.11 and on the side of the Insurance Company, R.W.1 was examined and Ex.R.1 &



Ex.R.2 were marked.

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6. Finding of the Tribunal:

The Tribunal, after considering all the aspects, fixed the negligence on the driver of the vehicle and the Tribunal, after considering the Wound Certificate, under Ex.C.2, issued by the Rajaji Government Hospital, Madurai, awarded Rs.9,000/- per percentage for 37% by relying the judgment of this Court in the case of ***M.Revanth Kumar Vs. M/s.Sun X-Concrete India Private Limited and Another*** and granted Rs.3,33,000/- and granted Rs.50,000/- towards Loss of eye sight, Rs.25,000/- towards Pain and suffering and Rs.10,000/- towards Attender Charge, Rs.10,000/- towards Nutritions and Rs.5,000/- towards Transport and totally awarded a sum of **Rs.4,33,000/-** as compensation under the following heads:-

<i>Sl.No.</i>	<i>Head</i>	<i>Amount in Rupees</i>
1.	Disability	Rs.3,33,000/-
2.	Loss of right eye sight	Rs. 50,000/-
3.	Pain and suffering	Rs. 25,000/-
4.	Attendant Charges	Rs. 10,000/-
5.	Nourishment and amenities	Rs. 10,000/-
6.	Transport Charges	Rs. 5,000/-
	Total	Rs.4,33,000/-



7. Challenging the same, the appellant/claimant has filed this appeal seeking enhancement.

8.1. The learned counsel appearing for the appellant/claimant and the learned counsel for the first respondent would submit that the monthly income of the appellant is Rs.50,000/-. Now, the appellant is unable to continue his contract business due to the loss of eyesight. Further, he lost 100% of his earning capacity, and he also sustained 37% permanent disability as per Ex.C.2. In such circumstances, the Tribunal ought to have computed the compensation on the basis of the multiplier method.

8.2. The learned counsel appearing for the appellant/claimant and the learned counsel for the first respondent would further submit that the amounts awarded under the various other heads like pain and suffering, nourishment and loss of goods are very low and the total compensation awarded at **Rs.4,33,000/- (Rupees Four Lakhs and Thirty Three Thousand Only)** is also very low and the same is liable to be enhanced. Hence, he seeks suitable enhancement of the compensation.



8.3. The learned counsel for the second respondent/Insurance Company and the learned counsel for the first respondent would also submit that the the income of Rs.50,000/- is very high. To prove the same, no document was produced, they disputed the same.

8.4. The learned counsel for the second respondent/Insurance Company and the learned counsel for the first respondent would contend that the appellant is doing the contract work even after the accident, and the loss of eyesight is not a hindrance to his contract business and he can do his contract business by employing labourers. Therefore, the learned trial Judge correctly declined to grant award under the head of Loss of Income.

8.5. The learned counsel for the second respondent/Insurance Company and the learned counsel for the first respondent would also content that at the time of accident, the appellant had consumed alcohol and hence, he is solely responsible for the accident. This aspect has to be considered in this appeal for enhancement.

9. This Court heard the rival submissions made on either side and perused the award passed by the Tribunal.



10. The only point that arises for consideration is as to *whether the quantum of compensation awarded by the Tribunal to the appellant/claimant is just and proper and is in accordance with law?*

11. At the outset, this Court is unable to accept the contention of the learned counsel appearing for the Insurance Company that the appellant had consumed alcohol and therefore he is responsible for the accident. This Court is not inclined to consider the same in this appeal filed by the appellant seeking enhancement of compensation, in view of the fact that the Insurance Company has not preferred any appeal challenging the findings of the Tribunal either on negligence or on quantum.

12. The appellant/claimant sustained serious injuries. Due to the huge injuries, he lost vision in his right eye. The same is the permanent disability as per the schedule. Even though, he lost vision in his right eye and also sustained injuries in his right leg, he is continuing his contract work through employing labourers and he is not able to do things personally and hence there is reduction of income. Hence, there was reduction of income source. Therefore, this Court accepted the argument of the learned counsel for the appellant that multiplier method ought to have been followed by the learned



Tribunal Judge while computing the compensation. But the learned tribunal Judge failed to apply appropriate multiplier method. Therefore, this Court is inclined to interfere and award suitable compensation by adopting multiplier method.

13. Calculation of the amount:

13.1. Even though it is stated in the claim petition that at the time of accident, the appellant was earning a sum of Rs.50,000/- per month, no proof was filed to show the same. The Disability Certificate issued by the Medical Board by pointing out 37% permanent disability is not disputed. The Hon'ble Supreme Court in *Syed Sadiq Vs. United India Insurance Company* reported in **2014 (1) TN MAC 459** has fixed the monthly income at Rs. 6,500/- for a vegetable vendor, who sustained injuries in the accident which occurred in the year 2008 and that the Hon'ble Division Bench of this Court in *Andal and others Vs. Avinav Kannan and another* reported in **2019 1 TN MAC 54 (DB)**, by taking into the amount fixed by the Hon'ble Supreme Court in *Syed Sadiq's case* at Rs.6,500/-, has applied the cost of inflation index issued by the Central Board of Direct Tax and fixed the notional monthly income of the deceased. As per the above index, the cost of inflation index for the year 2021-2022 will be 317. Hence, the notional income of the appellant/claimant would be Rs.15,975/- (6500 x 317/129) rounded off to Rs.



16,000/- and awarded 40% future prospect as per the judgment of the Hon'ble Supreme Court *National Insurance Company v. Pranay Sethi and others, reported in (2017) 16 SCC 680*. After adding 40% of future prospect, the monthly income of the appellant/claimant would be Rs.22,400/- ($16000 \times 40/100 = 6,400$, $16,000 + 6,400$). After adopting multiplier of '14', it comes around **Rs.13,92,384/-** ($22,400 \times 37/100 \times 12 \times 14$).

13.2. The tribunal awarded a sum of **Rs.50,000** towards Loss of right eye vision and awarded a sum of **Rs.25,000/-** towards Pain and Suffering and awarded a sum of **Rs.10,000/-** towards Attendant Charge and awarded a sum of **Rs.10,000/-** towards Loss of Nourishment and amenities and also awarded a sum of **Rs.5,000/-** towards Transport Charges. Since the same was reasonable, this Court is not inclined either to reduce or enhance the same. Claimant specifically deposed that due to the accidental injuries, no one is willing to marry him. There is no contra evidence. Hence this Court is inclined to grant **Rs. 1,00,000/-** under the loss of marriage prospect. The petitioner sustained 37% permanent disability and hence this court inclined to grant **Rs. 1,11,000/-** under the head of permanent disability.

**14. Conclusion:**

This Court in view of the above discussion, re-determined the compensation as follows:

<i>Sl. No .</i>	<i>Head</i>	<i>Amount awarded by the Tribunal</i>	<i>Re-quantified amount by this Court</i>	<i>Status</i>
1.	Loss of Income	...	Rs.13,92,384/- (22,400 x 37/100 x 12 x 14)	awarded
2.	Disability	Rs.3,33,000/-	Rs.1,11,000/-	reduced
2.	Loss of right eye sight	Rs. 50,000/-	Rs. 50,000/-	confirmed
3.	Pain and suffering	Rs. 25,000/-	Rs. 25,000/-	confirmed
4.	Attendant Charges	Rs. 10,000/-	Rs. 10,000/-	confirmed
4.	Nourishment and amenities	Rs. 10,000/-	Rs. 10,000/-	confirmed
5.	Transport Charges	Rs. 5,000/-	Rs. 5,000/-	confirmed
6.	Marriage Prospect	----	Rs.1,00,000/-	awarded
	Total	Rs.4,33,000/-	Rs.17,02,384/-	enhanced

15. In the result, the Civil Miscellaneous Appeal is partly allowed. The compensation awarded in M.C.O.P.No.69 of 2023, on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Srivilliputhur, dated 10.02.2025 is hereby enhanced from **Rs.4,33,000/- (Rupees Four Lakhs Thirty Three Thousand Only)** to **Rs.17,02,384/-**



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(Rupees Seventeen Lakhs Two Thousand Three Hundred and Eighty Four Only) with interest of 7.5% from the date of filing of the claim petition in M.C.O.P.No.69 of 2023, on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Srivilliputhur. The second Respondent/Insurance Company is directed to deposit the difference of modified award amount with accrued interest and costs, *less any amount if already deposited*, within a period of **8 weeks** from the date of receipt of a copy of this order. The appellant/claimant is permitted to withdraw the amount. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

27.10.2025

NCC : Yes/No
Index :Yes/No
Internet:Yes/No
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To

1. The Motor Accident Claims Tribunal,
Chief Judicial Magistrate Court, Srivilliputhur.
- 2.The Record Keeper,
VR Section,
Madurai Bench of Madras High Court,Madurai.



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K.K.RAMAKRISHNAN, J.

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