



C.M.A.(MD) No.1695 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2025

CORAM

THE HONOURABLE MRS. JUSTICE R.KALAIMATHI

C.M.A.(MD) No.1695 of 2024

Austin

... Appellant

Vs.

1.Dhayalan

2.United India Insurance Company Ltd.

through its Branch Manager,

Office at No.1/5, 2nd Floor,

Athisamy Arcade, P.W.D. Road,

Nagercoil,

Kanniyakumari District.

... Respondents

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to enhance the award amount by granting Rs.5,00,000/- as further compensation along with interest at 18% per annum from the date of main claim petition till the date of deposit with cost.

For Appellant : Mr.G.Ravisankar

For R2 : Mr.K.Jeyamohan



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J U D G M E N T

Not being satisfied with the award dated 08.12.2023 passed in M.C.O.P.No.1594 of 2019 on the file of the Motor Accident Claims Tribunal/Additional Subordinate Court, Tirunelveli, the claimant has preferred this Civil Miscellaneous Appeal for enhancement of compensation.

2. Heard the learned counsel for the appellant and the learned counsel for the second respondent and perused the relevant records.

3. The appellant/claimant filed a claim petition claiming compensation of Rs.15,00,000/- under Sections 166 and 140 of the Motor Vehicles Act, 1988, on account of the road traffic accident that occurred on 30.07.2019.

4. Upon consideration, the Tribunal fixed the monthly income of the appellant/injured claimant at Rs.10,000/- and granted compensation as follows: for partial permanent disability - Rs.42,000/- (Rs.3,000/- x 14%), for loss of income during the treatment period - Rs.10,000/- (Rs.10,000 x



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1), for pain and sufferings - Rs.10,000/-, for extra nourishment - Rs. 5,000/-, and for transport charges - Rs.5,000/-; in total, an amount of Rs. 72,000/-.

5. It has come on record through the evidence of P.W.1 that, at the relevant point of time, the appellant/claimant was working as a mason and earning a sum of Rs.20,000/- per month. The date of the accident is 30.07.2019. His further evidence indicates the fact that, due to the accident, he suffered fracture of both bones in the left leg (distal), underwent surgery, and implants were fixed. The Medical Board has fixed the disability of the appellant/claimant at 14%.

6. In consideration of the above said details, the notional income of the appellant/claimant is fixed at Rs.14,000/- per month.

7. As the appellant/claimant suffered fracture of both bones in the left leg (distal), he would have at least taken rest for a period of four months. Therefore, for the loss of income during the treatment period, an amount of Rs.56,000/- (Rs.14,000 x 4) is granted.



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8. As regards the partial permanent disability, considering the fractures suffered by the appellant/claimant, Rs.6,000/- per percentage is granted. Thus, the compensation for partial permanent disability would amount to Rs.84,000/- (Rs.6,000/- x 14%).

9. For pain and sufferings and for transport expenses, an amount of Rs.10,000/- is granted under each head, in addition to the amount already granted by the Tribunal. As regards the other heads, the amount granted by the Tribunal appears to be reasonable and acceptable and it requires no interference.

10. The compensation granted as mentioned supra is reworked and tabulated as hereunder:

<i>Sl. No</i>	<i>Heads</i>	<i>Amount awarded by the Tribunal</i>	<i>Amount awarded by this Court</i>
1	For Partial Permanent Disability	Rs.42,000/-	Rs.84,000/-
2	For loss of income during the treatment period	Rs.10,000/-	Rs.56,000/-
3	For Pain and Suffering	Rs.10,000/-	Rs.20,000/-
4	For Extra Nourishment	Rs. 5,000/-	Rs. 5,000/-
5	For Transport Expenses	Rs.10,000/-	Rs.20,000/-
Total		Rs.72,000/-	Rs.1,85,000/-



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WEB COPY 11. The second respondent, Insurance Company, is directed to deposit the aforesaid modified amount of Rs.1,85,000/- together with interest at 7.5% per annum from the date of the claim petition till the date of realization and costs, after deducting the amount already deposited, if any, within a period of 8 weeks from the date of receipt of a copy of this Judgment.

12. On such a deposit, the appellant/claimant is permitted to withdraw the same along with interest and costs, less the amount already withdrawn, if any, by filing necessary application before the Tribunal.

13. The appellant/claimant shall pay the court fee for the enhanced amount, if any.

14. 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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15. In the result, this Civil Miscellaneous Appeal is partly allowed.

No costs.

30.01.2025

Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order/Non-Speaking Order

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Copy To:

- 1.The Additional Sub Judge,
Tirunelveli,
Tirunelveli District.
- 2.The Section Officer,
V.R.Section,
Madurai Bench of Madras high Court,
Madurai.



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R.KALAIMATHI, J.

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