

C.M.A(MD)No.893 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 12.06.2025

Pronounced On : 04.08.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A(MD)No.893 of 2022

T.Elayaraja

: Appellant

Vs.

1.S.Revathi

2.M/s.Reliance General Insurance Company Limited,
Branch Office, 80 Feet Road,
Anna Nagar, (Near Airtel Office)
Madurai – 20.

: Respondents

(Memo, dated 12.06.2025 is recorded)

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to call for the records of the Tribunal and consider the merits of the case and to enhance the award passed by the Motor Accident Claims Tribunal cum IV Additional Sub Court, Madurai in M.C.O.P.No.635 of 2010, dated 06.11.2015.

For Appellant : Mr.J.Alaguram Jothi

For Respondents : Mr.J.S.Murali, for R2



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The Civil Miscellaneous Appeal is directed against the award passed in M.C.O.P.No.635 of 2010, dated 06.11.2015 on the file of the Motor Accident Claims Tribunal cum IV Additional Sub Court, Madurai.

2. The appellant/claimant, who was awarded compensation of Rs.1,27,500/- with interest at 7.5% per annum for the disability suffered by him, consequent to an accident occurred on 15.11.2008, challenged the quantum of compensation awarded at by the tribunal and claimed enhancement of the same.

3. During enquiry before the Tribunal, the appellant/claimant examined himself as P.W.1 and examined Dr. Shanmugam and a staff Thiru. Balu, attached to the Government Rajaji Hospital, Madurai as P.W.2 and P.W.3 respectively and exhibited 12 documents as Ex.P.1 to Ex.P.12. The first respondent remained ex-parte. The second respondent/insurance company examined two witnesses as R.W.1 and R.W.2 and exhibited two documents Ex.R.1 and Ex.R.2.



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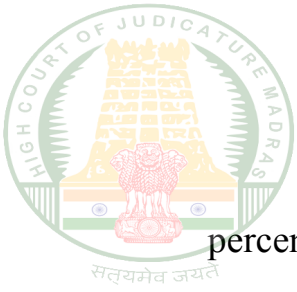
4.The learned trial Judge, upon considering the evidence, both oral and documentary and on hearing the arguments of both the sides, has passed the impugned award, dated 06.11.2015, by holding that the tipper lorry driver was responsible for the accident, directed the second respondent/insurance company to pay compensation of Rs.1,27,500/- with interest and costs to the claimant. Aggrieved by the said award, the claimant has come forward with the present appeal seeking enhancement.

5. The points that arises for consideration are;

(i) Whether the Tribunal without considering the medical records and the number of surgeries undergone by the claimant and the quantum of disability fixed by the Medical Board erred in reducing the percentage of disability at 34% ?

(ii) Whether the quantum of compensation awarded by the Tribunal under the other heads are just and proper and in accordance with law ?

6.The learned counsel for the appellant/claimant would submit that the competent medical board examined the claimant and fixed the



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percentage of disability at 44%, but the Tribunal, without assigning any valid reason, has reduced the percentage of disability at 34% ; that the appellant has undergone six surgeries due to the accident; that the Tribunal has only awarded a sum of Rs.30,000/- towards pain and sufferings, which is very low and is not commensurate with the pain and sufferings undergone by the appellant; that though the appellant has given evidence that he was earning sum of Rs.15,000/- per month, the Tribunal, without any basis, fixed the monthly income at Rs.4,500/- and awarded Rs.13,500/- for loss of earning; that the total compensation awarded by the Tribunal is very low and that therefore, the same is liable to be enhanced.

7.The learned counsel appearing for the second respondent would submit that the Tribunal, upon considering the medical evidence available on record, has rightly fixed the disability at 34% and granted Rs.68,000/- for partial permanent disability; that the Tribunal, taking note of the surgeries and the treatment period, has rightly awarded Rs.30,000/- for pain and sufferings; that since the appellant has not produced any material to prove his monthly income, the Tribunal has fixed the monthly income at Rs.4,500/- and rightly awarded Rs.13,500/- for loss of earning



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and that therefore, the compensation awarded by the Tribunal is just and reasonable and as such, the same is not liable to be interfered with.

8. In the claim petition, the appellant has stated that he sustained crush injury in the right palm, his right little finger was amputated and two other fingers received serious injuries and also sustained deglove injury in the right palm.

9. It is evident from the medical records that the petitioner was initially admitted in Government Rajaji Hospital on 15.11.2008 and discharged on 25.12.2008 and again he was admitted on 26.05.2009 and was discharged on 04.07.2009. P.W.2 Medical Officer in his evidence would say that the petitioner had undergone six surgeries and the second surgery is with regard to amputated little finger and the third one plastic surgery.

10. As already pointed out, the Medical Board after examining the petitioner and records has come to a decision that the petitioner suffered partial permanent disability at 44%. The Tribunal by simply observing that the disability percentage fixed by the Medical Board is some what



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high, has fixed the same as 34%. As rightly contended by the learned counsel appearing for the appellant/claimant, the Tribunal has not assigned any reason for reducing the disability percentage. Considering the evidence available on record, the disability percentage fixed at 44% by the Medical Board cannot be found fault with. Hence, the appellant is entitled to get disability compensation at Rs.88,000/-.

11.The petitioner in his claim petition has stated that he is working as agricultural coolie and real estate broker and is getting Rs.15,000/- as monthly income. No doubt, the petitioner has not produced any iota of evidence to prove the monthly income.

12.The Tribunal has fixed notional monthly income at Rs.4,500/- and on that basis awarded Rs.13,500/- as loss of earning. Considering the age of the appellant and the treatment period, monthly income fixed by the Tribunal is on lower side and this Court is inclined to fix the monthly income at Rs.6,000/- per month. Hence, the petitioner is entitled to get Rs.18,000/- towards loss of earning. The Tribunal has awarded Rs.30,000/- for pain and suffering; Rs.5,000/- for transportation and Rs.10,000/- extra nourishment.



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WEB COPY 13.Considering the nature of injuries suffered, disability sustained and the period of treatment and the number of surgeries undergone and other attending circumstances, the amounts awarded under the above heads are on lower side and this Court is inclined to award Rs.50,000/- for pain and sufferings; Rs.10,000/- for transportation and Rs.25,000/- for extra nourishment.

14.Considering the above, this Court decides that the claimant is entitled to get compensation under the various heads as follows:

Head of compensation	Amount awarded by the tribunal	Amount confirmed/modified by this Court
Partial permanent disability	Rs.68,000/-	Rs.88,000/-
Loss of income	(4,500x3) Rs.13,500/-	(6,000 x3) Rs.18,000/-
Pain and sufferings	Rs.30,000/-	Rs.50,000/-
Transportation charges	Rs.5,000/-	Rs.10,000/-
Nutritious food	Rs.10,000/-	Rs.25,000/-
Loss of amenities	Rs.1,000/-	---
Total	Rs.1,27,500/-	Rs.1,91,000/-



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Considering the other facts and circumstances, this Court further decides that the parties are to be directed to bear their own costs and the above point is answered accordingly.

15.In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation amount is enhanced from **Rs.1,27,500/-** to **Rs.1,91,000/-** with interest at 7.5% per annum. The second respondent/Insurer is directed to deposit the enhanced award amount, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order and on such deposit, the claimant is permitted to withdraw the award amount with accrued interest and costs, less the amount already withdrawn, if any, on due application before the Tribunal. The parties are directed to bear their own costs.

04.08.2025

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

- 1.The Motor Accident Claims Tribunal cum
IV Additional Sub Court, Madurai.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

das

Pre-delivery order made in
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