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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-10-2026

CORAM

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

CMA No. 1263 of 2023

CNR: {HCMA010300312023}

Raja
S/O. Kandaswamy, 10/398, East Puliampatty,
Edanganasalai, Elampillai, Sankari Taluk, Salem District.

..Appellant(s)

Vs

1. Karthi
   S/O. Padmanabhan, 36/48, Bharathi Street,
   Gugai, Salem District.
   (Notice to R1 may be dispensed with
   for the time being and separate petition is filed.)

2. United India Insurance Company Ltd
   104A, Ranga Building, Peramanur Main Road,
   Near Four Roads, Salem District. ..Respondent(s)

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order made in MCOP No.60 of 2019 on the file of the Motor Accident Claims Tribunal Cum Special Subordinate Court No.2, Salem dated 11.03.2020.

For Appellant(s) : MR.C.Kulanthaivel

For R1 : Dispensed with

For R2 : Mr.S.Arunkumar

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JUDGMENT

Unsuccessful claimant has preferred the present Civil Miscellaneous Appeal seeking enhancement of compensation.

2. Claim petition was filed under Section 166 of the M.V.Act, 1988 r/w Section 3 of the Tamil Nadu Motor Accident Claims Tribunal, seeking compensation for the injuries sustained by him, in a road accident.

3. According to the claimant, on 29.09.2018, at about 8.00 a.m., while he was walking along Chinnappampatti – Elampillai Road, near Pappampatty Petrol Bunk, a Yamaha motorcycle bearing Registration No.TN-54-Q-7764, proceeding in the same direction, was driven by its rider in a rash and negligent manner and hit the claimant from behind. Due to the impact, the claimant sustained multiple injuries all over his body.

4. It is the further case of the claimant that, at the time of the accident, he was aged about 45 years, working as a power loom weaver and earning a sum of Rs.15,000/- per month.

5. The first respondent remained ex parte before the Tribunal.

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6. The second respondent/Insurance Company has filed a counter statement denying the manner of the accident .

7. Before the Tribunal, the claimant himself examined as P.W.1 and the Doctor, Mr.Arun, was examined as P.W.2, and Exs.P1 to P9 were marked. On the side of the second respondent, R.W.1 was examined and Exs.R1 to R3 were marked. Exs.C1 and C2 were also marked .

8. Upon appreciation of the evidence adduced on either side, the Tribunal found that the accident had occurred solely due to the rash and negligent driving of the rider of the offending vehicle. With regard to the quantum of compensation, considering the evidence of P.W.2 and the disability certificate issued by him, assessing the permanent disability of the claimant at 47.6%, the Tribunal awarded a sum of Rs.3,000/- for each percentage of disability and accordingly granted Rs.1,42,800/- towards permanent disability. The Tribunal also awarded compensation under various other heads as detailed below:-

S.No.	Heads of Compensation	Amount awarded by the Tribunal
1	Permanent Disability (Rs.47.6% x Rs.3,000/-)	Rs.1,42,000/-
2	Pain and suffering	Rs. 40,000/-
3	Loss of amenities	Rs. 40,000/-
4	Medical Expenses (as per Ex.P6 – Medical bills)	Rs. 1,19,083/-

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5	Loss of income during the treatment period (Rs.8,000/- x 6 months)	Rs. 48,000/-
6	Transportation charges	Rs. 10,000/-
7	Extra nourishment	Rs. 10,000/-
9	Attender charges	Rs. 10,000/-
10	Damage to clothes	Rs. 1,000/-
	Total	Rs. 4,20,883/-

9. Aggrieved over the same, the claimant has preferred the present appeal seeking enhancement.

10. The learned counsel appearing for the appellant/claimant would submit that the Tribunal failed to consider the nature of injuries sustained by the claimant and also failed to properly appreciate the medical records produced before it. The doctor who treated the claimant was examined as P.W.2 and categorically deposed regarding the nature of injuries sustained by him. P.W.2 stated that the claimant had sustained a fracture of the right proximal tibia and other fracture injuries. He further deposed that the fractured bones had malunited, resulting in total loss of movements required for squatting, sitting cross-legged and kneeling. He also deposed that the movements of the claimant's right leg were restricted to the extent of 30% and assessed his permanent disability at 47.6%. Considering the nature of injuries and the resultant permanent disability, it is evident that the injuries would have a

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considerable impact on the claimant's earning capacity. Admittedly, the claimant was aged about 45 years at the time of the accident and was working as a power loom weaver. Having regard to the nature of his occupation, the permanent disability sustained by him would certainly affect his ability to carry on his avocation. Therefore, the Tribunal ought to have considered adopting the multiplier method instead of the percentage method while determining the compensation towards permanent disability and loss of earning capacity.

11. The learned counsel appearing for the appellant/claimant would further submit that the Tribunal has fixed the monthly income of the claimant at Rs.8,000/-, which is on the lower side.

12. Per contra, the learned counsel appearing for the second respondent/Insurance Company would submit that the claimant has not chosen to appear before the Medical Board for assessment of the disability. P.W.2, the doctor who treated the claimant has examined him and issued the disability certificate assessing the disability at 47.6%. The said assessment was made with reference to the restriction in the movements of the right leg alone and cannot be treated as the whole body disability of the claimant. In the absence of evidence establishing functional disability or loss of earning capacity, the Tribunal has rightly adopted the percentage method, considering the nature of

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injuries sustained by the claimant. The learned counsel would further submit that the compensation awarded by the Tribunal towards permanent disability is reasonable and there is no necessity to interfere with the same.

13.. This Court has considered the submissions made on either side and perused the materials available on record.

14. There is no dispute with regard to the manner of the accident. As regards the quantum of compensation, considering the nature of injuries sustained by the claimant and the medical evidence available on record, it is evident that the injuries have resulted in permanent disability. However, the question arise for consideration is whether the assessment of disability made by P.W.2 at 47.6% can be accepted in its entirety. The Tribunal had adopted the percentage method for awarding compensation towards permanent disability. The claimant has also sought enhancement of the monthly income fixed by the Tribunal at Rs.8,000/-.

15. It is also relevant to note that the claimant has not chosen to appear before the Medical Board for assessment of his disability. From the evidence of P.W2, the doctor who treated the claimant, it is evident that the claimant had sustained fractures, which had subsequently malunited, resulting in total loss of

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movements required for squatting, sitting crossed leg and kneeling. P.W.2 had also issued Ex.P8 – the disability certificate, wherein it has been stated that the movement of the claimant's right leg was restricted to the extent of 30% and that permanent disability was assessed at 47.6%.

16. However, a perusal of Ex.P8, the disability certificate issued by P.W.2, reveals that the assessment was made by the treating doctor and not by a Medical Board. Though the claimant had sustained injuries resulting in permanent restriction of movements of his right leg, the assessment of disability at 47.6% made by private doctor can not, in the absence of an assessment by the medical Board, be accepted in its entirety. Having regard to the nature of injuries and the medical evidence available on record, this Court is inclined to fix the permanent disability of the claimant at 35%.

17. With regard to the quantum of compensation towards permanent disability, the claimant was assessed by the treating doctor as having sustained 47.6% permanent disability. The Tribunal, by applying the ratio laid down by this Court in ***Chinnathambi vs. Deepa and other reported in 2020 (1) TNMAC 617,*** awarded a sum of Rs.3,000/- per percentage of disability. Considering the nature of injuries sustained by the claimant and the date of accident, this Court is inclined to enhance the compensation to Rs.6,000/- for each percentage of

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disability. Accordingly, considering the permanent disability at 35%, a sum of Rs.2,10,000/- (Rs.6,000/- × 35%) is awarded under the head of permanent disability. .

18. According to the claimant, he was aged about 45 years and was working as a power loom waiver, earning a sum of Rs.15,000/- at the time of accident. In the absence of proof of monthly income, the Tribunal fixed a sum of Rs.8,000/- per month towards loss of income appears to be very meagre. Having regard to the nature of injuries sustained by the claimant and the period of treatment and recovery, the award under the head of loss of income requires modification. Accordingly, this Court is inclined to fix the monthly income of the claimant at Rs.15,000/- as notional income. Further, considering the nature of injuries sustained by the claimant and the period of treatment, this Court is inclined to fix the period of loss of income at six months. Accordingly, a sum of Rs.90,000/- (Rs.15,000/- × 6 months) is awarded under the head of loss of income during the treatment period.

19. In the light of the foregoing discussion, the compensation awarded by the Tribunal under the heads of permanent disability and loss of income alone requires enhancement. The compensation awarded by the Tribunal under the other heads appears to be reasonable and does not warrant any interference.

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20. In view of the above, the Tribunal also awarded compensation under various other heads as hereunder :-

S.No.	Heads of Compensation	Amount awarded by the Tribunal
1	Permanent Disability (Rs.35% x Rs.6,000/-)	Rs. 2,10,000/-
2	Pain and suffering	Rs. 40,000/-
3	Loss of amenities	Rs. 40,000/-
4	Medical Expenses (as per Ex.P6 – Medical bills)	Rs. 1,19,083/-
5	Loss of income during the treatment period (Rs.15,000/- x 6 months)	Rs. 90,000/-
6	Transportation charges	Rs. 10,000/-
7	Extra nourishment	Rs. 10,000/-
9	Attender charges	Rs. 10,000/-
10	Damage to clothes	Rs. 1,000/-
	Total	Rs. 5,30,083/- rounded off to Rs.5,30,000/-

21. In the result,

i) The Civil Miscellaneous Appeal is partly allowed.

ii) The compensation amount awarded by the Tribunal by enhancing from Rs.4,20,883/- to Rs.5,30,000/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit (except the period of default, if any).

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iii) The second respondent/ Insurance Company is directed to deposit the entire award amount now determined by this Court, (less the amount already deposited if any), within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.60 of 2019 on the file of the Motor Accident Claims Tribunal/ Special Subordinate Court No.2, Salem.

iv) On such deposit being made, the claimant is permitted to withdraw the same with interest and cost by filing necessary application before the Tribunal.

v) The claimant is directed to pay the Court fee, if required.

vi) The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

vii) The manner and mode of disbursement of compensation shall be as per the order of the Tribunal. There shall be no order as to costs.

29-10-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
KKD

To

The Motor Accident Claims Tribunal,
Special Subordinate Court No.2, Salem.

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M.JOTHIRAMAN, J.

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