WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-11-2026

CORAM

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

CMA No. 1885 of 2024

CNR:{HCMA010681262024}

A.Anath Babu
S/o. Anthoni, 2/222, Kristu Raja Church St,
Erumaiyur, Thirumudivakkam, Rajagobal
Kandigai, Chennai 44.

Case QR

..Appellant(s)

Vs

1. R. Umamaheswari
   W/o. H. Ramesh, No.311, Dr. Selvi Jayakumar
   St, Golden George Nagar, Nerukundram,
   Chennai 107.

2. National Insurance Co.Ltd.,
   George Town Branch, Zenith House, 7
   Umpherson St, Oppostie to Kuralagam,
   Chennai 108.

..Respondent(s)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the order passed in MCOP No.5962 of 2018 on the file of II Small Causes Court, Chennai dated 22.04.2018 and enhance the compensation as prayed in the claim petition.

For Appellant(s): Mr.D.Magesh
For Respondent(s): M/s. S. Arunkumar For R2

JUDGMENT

Unsuccessful claimant has preferred this Civil Miscellaneous Appeal seeking enhancement of compensation, vide award dated 22.04.2018 passed in MCOP.No.5962 of 2018 on the file of II Small Causes Court, Chennai. Claim

https://www.mhc.tn.gov.in/judis

WEB COPY

Petition has been filed under Section 166 of the Motor Vehicles Act, 1988 seeking compensation for the injuries sustained by the claimant in a road accident.

2. According to the claimant, on 11.06.2018 at about 10.30 a.m., while he was riding the motorcycle bearing Reg.No.TN 22 BC 8393 on Maduravoyal By-Pass road from South to North direction in the service road opposite to Hindustan Petroleum bunk, at that time a lorry bearing Reg.No.TN 73-L 8455 driven by its driver in a rash and negligent manner from North to South direction, hit the claimant's motorcycle and as a result, the claimant lost his balance, fell down and sustained injuries all over his body. The 1st respondent / owner of the lorry and the 2nd respondent / insurer of the lorry were jointly liable to pay compensation to the claimants.

3. The 1st respondent / owner of the lorry was called absent and set exparte before the Tribunal.

4. The 2nd respondent / Insurance Company has filed counter statement denying the manner of accident.

5. Before the Tribunal, on behalf of the claimant, the claimant himself was examined as PW1 and Exs.P1 to P20 were marked. On behalf of the 2nd

https://www.mhc.tn.gov.in/judis

WEB COPY

respondent, neither any witness was examined nor any document was marked. The Disability Certificate of the claimant issued by the Medical Board, Government Stanley Hospital, Chennai was marked as Ex.C1.

6. Upon appreciation of evidence adduced on either side, the Tribunal concludes that the accident occurred due to the rash and negligent driving of the driver of the offending vehicle. The claimant appeared before the Medical Board, which assessed the disability at 70%. The Tribunal finds that the claimant claimed to have working as Leather Factory Worker in Renugambal Leather Company earning a sum of Rs.18,000/- per month. During the course of cross examination, the claimant / PW1 admitted that he is still working in the said company. In the absence of proof of loss of earning capacity, the Tribunal had adopted percentage method for awarding compensation under the head of disability by fixing a sum of Rs.5,000/- for each percentage of disability and accordingly awarded a sum of Rs.3,50,000/- under the head of disability . The Tribunal, considering the nature of injuries sustained by the claimant and the number of days he had taken treatment as in-patient, awarded compensation under various other heads as hereunder:

Heads of Compensation	**Amount awarded by the Tribunal (Rs.)**
Compensation for Injuries / Disability [Rs.5,000 x 70]	3,50,000
Loss of Income [Rs.18,000 x 10 months]	1,80,000

https://www.mhc.tn.gov.in/judis

WEB COPY

Attender Charge [160 days @ Rs.400]	64,000
Pain and Sufferings	2,50,000
Extra Nourishment	20,000
Transportation	10,000
TOTAL	**8,74,000**

Aggrieved over the same, the claimant has preferred this appeal seeking enhancement of compensation.

7. The learned appearing for the appellant / claimant would submit that the claimant had sustained grievous injuries in the form of amputation, crush injury and permanent disability of the claimant was assessed at 70% by the Medical Board. The Tribunal has failed to appreciate the fact that claimant sustained right LL Injury was grievous in nature which was referred by the Medical Board and the Tribunal ought to have adopted Multiplier Method for awarding compensation instead instead of applying Percentage Method. The compensation awarded by the Tribunal under other heads appears to be meagre and the same has to be enhanced. To strengthen his contentions, the learned counsel has relied upon the judgment of the Hon'ble Apex Court in ***Dinesh Singh v. Bajaj Allianz General Insurance Co. Ltd. [2014 (1) TNMAC 641 (SC)]***, to show that permanent disability once fixed, compensation has to be awarded considering its impact on employment / profession of claimant. Also relied upon the judgment of the Hon'ble Apex Court in ***Sandeep Khanuja v. Atul Dande and Another [(2017) 3 SCC 351]*** to show that in injury cases, description of nature of injury and permanent disablement are relevant factors

https://www.mhc.tn.gov.in/judis

WEB COPY

and it has to be seen as to what would be impact of such injury / disablement on earning capacity of injured. There should be no departure from multiplier method on ground of "just" compensation since multiplier method is accepted method for determining and ensuring payment of just compensation and is expected to bring uniformity and certainty of awards made all over country.

8. *Per contra*, learned counsel appearing for the 2nd respondent / Insurance Company would submit that the claimant has not suffered with any amputation of legs and in the absence of proof of functional disability and in the absence of proof of loss of earning capacity, the Tribunal has rightly adopted percentage method for awarding compensation under the head of disability. The claimant himself admitted in his cross examination that he is still working as worker in leather company, but he has not produced any documentary proof to show that he has lost his earning capacity due to the injuries sustained in the accident. Considering the Disability Certificate in Ex.C1, the Tribunal comes to the conclusion that the claimant has not suffered with any functional disability and fixed percentage method for calculating compensation for the injury sustained by the claimant in the accident. The compensation awarded by the Tribunal under other heads, namely Attender Charges, Pain and Sufferings, Extra Nourishment and Transportation Charges appears to be just and reasonable and does not require any interference.

https://www.mhc.tn.gov.in/judis

WEB COPY

9. This Court considered the submissions made on either side and perused the entire materials available on record.

10. There is no dispute with regard to the manner of accident and the negligence fixed on the part of the driver of the offending vehicle. A perusal of Ex.P7- Accident Register copy issued by the Government Hospital, Tambaram shows that the claimant sustained injuries in the accident between a two wheeler and lorry. Ex.P8- Discharge Summary issued by the Government Stanley Hospital, Chennai shows that the claimant was admitted as inpatient on 11.06.2018 and discharged on 15.09.2018 for a period of 97 days and undergone surgery on 11.06.2018. As per Ex.P9- Discharge Summary issued by the Government Stanley Hospital shows that the claimant was again admitted as inpatient on 11.02.2019 and discharged on 12.03.2019, for a period of 30 days and undergone surgery on 06.03.2019

11. It is seen from the records that the claimant was referred to Medical Board, Government Stanley Hospital and the Medical Board has assessed the disability of the claimant as 70%. A perusal of Ex.C1-Disability Certificate shows that the claimant was assessed with 70% disability due to right LL injury. On perusal of Ex.C1 shows that there is no mention about claimant having suffered functional disability. PW1, in his cross examination, categorically admits that he is still working as Leather Worker in Regnugambal Leather

https://www.mhc.tn.gov.in/judis

WEB COPY

Company. At this juncture, it is relevant to refer the judgment of the Hon'ble Apex Court in ***Raj Kumar v. Ajay Kumar and another [2010 INSC 703]*** wherein it has been held that whenever there is a functional disability on account of permanent disability or partial permanent disability, the multiplier method has to be adopted. By applying the ratio laid down in the aforesaid judgment, in the case on hand, the claimant has not substantiated that he has suffered with functional disability and in the absence of proof of functional disability and loss of earning capacity, the Tribunal has rightly adopted percentage method for awarding compensation under the head of disability instead of multiplier method.

12. The Tribunal, considering that the accident took place in the year 2018, nature of injuries sustained by the claimant, percentage of disability assessed by the Medical Board and the number of days the claimant had undergone treatment as in-patient, has fixed Rs.5,000/- for each percentage of disability. At this juncture, it is relevant to cite the judgment of this Court in ***The United India Insurance Company v. G.Vijayakumar [CMA.No.3005 of 2024 dated 14.07.2025]***, wherein for the accident took place in the year 2018 for 45% disability, this Court has fixed a sum of Rs.8,000/- for each percentage of disability. By applying the ratio laid down in the said decision, this Court is inclined to fix Rs.8,000/- for each percentage of disability and accordingly, the compensation under the head disability comes to Rs.5,60,000/-

https://www.mhc.tn.gov.in/judis

WEB COPY

13. It is to be noted that a perusal of Ex.P18 – Salary Certificate issued by Renugambal Leather Company shows that the claimant was paid salary of Rs.18,000/- per month prior to the accident. The Tribunal also fixed Rs.18,000/- as the monthly income of the claimant. Considering the fact that the claimant was treated as inpatient for 127 days at Government Stanley Hospital in various different spells from 11.06.2018 to 06.03.2019 and he requires another one month to attend his work, the Tribunal has fixed Loss of Income for 10 months and accordingly awarded Rs.1,80,000/-, which appears to be just and reasonable and does not require any interference. The compensation awarded by the Tribunal under other heads are also reasonable and proper and does not require any interference. Accordingly, the compensation now determined by this Court is tabulated hereunder:

Heads of Compensation	**Amount awarded by the Tribunal (Rs.)**
Compensation for Injuries / Disability [Rs.8,000 x 70]	5,60,000
Loss of Income [Rs.18,000 x 10 months]	1,80,000
Attender Charge [160 days @ Rs.400]	64,000
Pain and Sufferings	2,50,000
Extra Nourishment	20,000
Transportation	10,000
TOTAL	**10,84,000**

14. In the result, this Civil Miscellaneous Appeal stands party allowed and the award dated 22.04.2022 in MCOP.No.5962 of 2018 on the file of the Motor Accidents Claims Tribunal, II Court of Small Causes Court, Chennai is

https://www.mhc.tn.gov.in/judis

WEB COPY

modified to the effect that the claimant is entitled for an enhanced compensation of Rs.10,84,000/- together with interest @ 7.5 % per annum from the date of claim petition till the date of realisation. The 2nd respondent / Insurance Company, being the insurer of the Lorry, is directed to deposit the compensation now determined by this Court, less amount already deposited within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the claimant is entitled to withdraw the same, less amount already withdrawn, on filing appropriate application before the Tribunal and on payment of necessary Court Fee for the enhanced compensation. The claimant is not entitled for any interest on the enhanced compensation for the default period of 210 days, as ordered by this Court in CMP.No.9288 of 2024 dated 08.07.2024. The manner, mode and disbursement of compensation, shall be as per the order of the Tribunal. No costs.

17-11-2026

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

To
1. Motor Accidents Claims Tribunal,
II Court of Small Causes Court, Chennai.

2.The Section Officer,
VR Section, High Court, Madras.

https://www.mhc.tn.gov.in/judis

WEB COPY

M.JOTHIRAMAN J.

Jvm

CMA No. 1885 of 2024

17-11-2026

https://www.mhc.tn.gov.in/judis