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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-10-2026

CORAM

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

CMA No. 1295 of 2024

CNR: {HCMA010933562024}

K.Lingeshwar
S/o. D.Kumaran, No. 30/48,
30th Street, GKM Colony,
Chennai 600 082. ..Appellant(s)

Vs.

1. M/s.Good Track Call Taxi Pvt.
   No.234/236, Arcot Road,
   Kodambakkam, Chennai 600 024.
   (R1 was set exparte before the Tribunal)

2. United India Insurance Co Ltd.
   Motor Third Party Claims Hub,
   Silingi Buildings,
   No. 134, Greams Road,
   Chennai 600 006. .. Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the contributory negligence on the part of the appellant to enhance the award against the order dated 7th day of December 2023 made in M.C.O.P. No.1194 of 2018 on the file of the Motor Accidents Claims Tribunal (3rd Judge, Court of Small Causes) at Chennai.

For Appellant : Mr.T.Rajanandhini
Mr.V.Venkatesan

For R1 : Notice dispensed withdraw
For R2 : Dr.C.Paranthaman

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JUDGMENT

Unsuccessful claimant has preferred the present Civil Miscellaneous Appeal seeking enhancement of compensation and challenging the fixation of 30% contributory negligence on his part.

2. Claim petition was filed under Section 166 of the Motor Vehicles Act, 1988, seeking compensation for the injuries sustained by the claimant, in a road accident.

3. According to the claimant, on 24.08.2017, at about 9.00 hrs., while he was riding his motorcycle bearing Registration No. TN 05 BC 5941 from GKM Colony towards Senthamangalam on the Chennai–Bengaluru National Highway, in the east-to-west direction, on the southern side of the road, a maxi cab bearing Registration No. TN 11 R 7923, driven by its driver in a rash and negligent manner, was proceeding in the same direction on the northern side of the road. Suddenly, the driver of the maxi cab turned the vehicle towards the left side, without giving any indication or signal. Consequently, the claimant lost control of his motorcycle and met with the accident. Due to the accident, the claimant sustained multiple injuries all over his body.

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4. The first respondent remained *ex parte* before the Tribunal.

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

6. Before the Tribunal, on behalf of the claimant, the claimant himself was examined as P.W.1 and Exs.P1 to P14 were marked. On the side of the second respondent, no witness was examined and no documents were marked. Ex.C1 is the disability certificate issued by the Medical Board.

7. On appreciation of the oral and documentary evidence, the Tribunal found that P.W.1 during his cross-examination had admitted that the offending vehicle was proceeding in the same direction and suddenly turned towards the left, resulting in the claimant losing control of his motorcycle, On the basis of the said admission, the Tribunal held that the claimant had also contributed to the accident and accordingly, fixed 30% contributory negligence on his part. The claimant appeared before the Medical Board, which assessed his permanent disability at 35%. By applying the ratio laid down by this Court in ***Chinnathambi vs. Deepa and other reported in 2020 (1) TNMAC 617,*** the Tribunal fixed a sum of Rs.5,000/- for each percentage of disability and awarded compensation under the head of permanent disability. The Tribunal also awarded compensation under various other heads as hereunder :-

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S.No.	Heads of Compensation	Amount awarded by the Tribunal
1	Disability	Rs.1,75,000/-
2	Pain and suffering	Rs. 20,000/-
3	Transportation	Rs. 4,000/-
4	Extra nourishment	Rs. 10,000/-
5	Attender charges	Rs. 1,500/-
6	Damage to clothes	Rs. 1,000/-
7	Loss of amenities	Rs. 3,000/-
9	Loss of earnings	Rs. 16,000/-
	Total Deduction of 30% for contributory negligence Compensation payable	Rs.2,30,500/- Rs. 69,150/- --- Rs.1,61,350/- --- rounded off to Rs.1,61,400/-

8. Aggrieved over the same, the claimant has preferred the present appeal seeking enhancement of compensation and also challenging the fixation of 30% contributory negligence on his part.

9. The learned counsel appearing for the appellant/claimant would submit that, in the absence of any contra evidence adduced by the Insurance Company to establish the alleged negligence on the part of the claimant, the Tribunal ought not to have fixed 30% contributory negligence on him. It is further

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submitted that the first respondent, being the owner of the offending vehicle, has not preferred any appeal challenging the award passed by the Tribunal. Therefore, the fixation of 30% contributory negligence on the part of the claimant is contrary to the evidence available on record and is liable to be set aside. The learned counsel would further submit that the accident occurred on 24.08.2017, the Tribunal ought to have fixed a sum of Rs.6,000/- for each percentage of disability instead of Rs.5,000/-. It is also contended that the Tribunal failed to consider the medical bills produced by the claimant under Ex.P6 and that the compensation awarded under the other heads is meagre and requires enhancement.

10. Per contra, the learned counsel appearing for the second respondent/Insurance Company would submit that the claimant himself admitted during his cross-examination that the offending vehicle was proceeding in the same direction and suddenly turned towards the left, as a result of which, he lost control of his motorcycle. The said admission clearly establishes that the claimant had also failed to control his vehicle and had contributed to the occurrence of the accident. Therefore, the Tribunal was justified in fixing 30% contributory negligence on the part of the claimant, which does not warrant any interference. With regard to the quantum of compensation, considering the nature of injuries sustained by the claimant and

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the period of inpatient treatment, the Tribunal has awarded just and reasonable and the same does not require any interference.

11. This Court has considered the submissions made by the learned counsel appearing on either side and perused the materials available on record.

12. It is relevant to note that the accident took place on 24.08.2017, at about 9.00 a.m. The claimant was riding his motorcycle from GKM Colony towards Senthamangalam on the Chennai–Bengaluru National Highway, proceeding in the east-to-west direction on the southern side of the road. At that time, the maxi cab bearing Registration No. TN 11 R 7923 was proceeding on the same road and suddenly turned towards the left, without giving any indication or signal, As a result, the claimant lost control of his motorcycle and met with the accident.

13. In order to establish the manner of the accident, the claimant himself was examined as P.W.1, and he narrated the circumstances leading to the accident. During his cross-examination, he admitted that the offending vehicle was proceeding in the same direction and suddenly turned towards the left. It is relevant to note that neither the driver of the offending vehicle nor any independent witness was examined on the side of the Insurance Company to substantiate its contention regarding the negligence of the claimant. In the

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absence of any contra evidence, the fixation of 30% contributory negligence on the part of the claimant by the Tribunal is excessive. However, considering the admission made by P.W.1 during his cross-examination that he was unable to control his motorcycle when the offending vehicle suddenly turned towards the left, this Court is inclined to reduce the contributory negligence on the part of the claimant from 30% to 5%.

14. With regard to the quantum of compensation, the claimant appeared before the Medical Board, which assessed his permanent disability at 35%. The Tribunal, by applying the ratio laid down by this Court in ***Chinnathambi's case*** *(cited supra)*, awarded a sum of Rs.5,000/- per percentage of disability. Considering the fact that the accident occurred on 24.08.2017, this Court is inclined to enhance the compensation to Rs.6,000/- for each percentage of disability. Accordingly, a sum of Rs.2,10,000/- (Rs.6,000/- × 35%) is awarded under the head of permanent disability.

15. It is relevant to note that the claimant relied upon the duplicate medical bills issued by Cauvery Hospital for a sum of Rs.87,853/- under Ex.P6. However, the person authorised to issue the said medical bills was not examined to substantiate the genuineness of the bills, nor were the supporting documents enclosed along with Ex.P6. Therefore, the Tribunal was justified in rejecting Ex.P6 medical bills.

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16. On a perusal of Ex.P4, it is evident that the claimant sustained a "split fracture lateral tibial condyle, a right galleazzi fracture dislocation - left". He was admitted as an inpatient at M.S. Hospital, Chennai, from 26.08.2017 to 30.08.2017, and a surgery was performed on 27.08.2017. Considering the nature of the injuries sustained by the claimant and the period of inpatient treatment, a sum of Rs.20,000/- awarded by the Tribunal under the head of pain and suffering appears to be meagre. Hence, this Court is inclined to enhance the compensation under the said head to Rs.30,000/-.

17. The Tribunal awarded a sum of Rs.4,000/- towards transportation charges. Considering the nature of the injuries and the treatment undergone by the claimant, the same is enhanced to Rs.8,000/-. A sum of Rs.10,000/- awarded under the head of extra nourishment also appears to be meagre. Hence, this Court is inclined to enhance the same to Rs.25,000/-. The claimant had undergone inpatient treatment for five days at M.S. Hospital. Considering the period of hospitalisation and the nature of injuries sustained, a sum of Rs.1,500/- awarded towards attendant charges is also meagre. Hence, this Court is inclined to enhance the same to Rs.5,000/-.

18. According to the claimant, he was working as a Mechanical Engineer and earning a sum of Rs.20,000/- per month. In support of his claim, he

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produced Ex.P9, the offer letter dated 18.09.2017, issued by a private concern, and Ex.P10, the salary slip issued by Steller Value Chain Solution Private Limited, Mumbai. On a perusal of Ex.P10, it is evident that the claimant had drawn a sum of Rs.20,408/- for the month of June 2018. However, the claimant has not chosen to examine his employer to substantiate the genuineness of Ex.P10 and to establish that the salary mentioned therein was actually paid to him. In the absence of sufficient evidence to prove his monthly income, this Court finds that the Tribunal was justified in fixing the notional monthly income of the claimant at Rs.16,000/-, and the same is hereby confirmed.

19. However, considering the nature of the injuries sustained by the claimant and the period of treatment, this Court is inclined to fix the treatment period at three months. Accordingly, a sum of Rs.48,000/- (Rs.16,000/- × 3 months) is awarded under the head of loss of income during the treatment period. In the above circumstances, the compensation awarded by the Tribunal under the other heads appears to be reasonable and does not warrant any interference.

20. In the light of the above discussion, this Court is inclined to modify the compensation awarded by the Tribunal under the various heads as detailed below :-

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S.No.	Heads of Compensation	Amount awarded by this Court
1	Disability (Rs.6,000/- × 35%)	Rs.2,10,000/-
2	Pain and suffering	Rs. 30,000/-
3	Transportation	Rs. 8,000/-
4	Extra nourishment	Rs. 25,000/-
5	Attender charges	Rs. 5,000/-
6	Damage to clothes	Rs. 1,000/-
7	Loss of amenities	Rs. 3,000/-
9	Loss of earnings	Rs. 48,000/-
	Total Deduction of 5% for contributory negligence Compensation payable	Rs.3,30,000/- Rs. 16,500/- --- Rs.3,13,500/- ---

21. In the result,

i) The Civil Miscellaneous Appeal is partly allowed.

ii) The finding of the Tribunal fixing 30% contributory negligence on the part of the claimant is modified and reduced to 5%.

iii) The compensation amount awarded by the Tribunal by enhancing from Rs.1,61,400/- to Rs.3,13,500/- 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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iv) 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.1194 of 2018 on the file of the Motor Accident Claims Tribunal/ III Court of Small Causes, Chennai .

v) On such deposit being made, the claimant is permitted to withdraw the same with interest and cost after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal.

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

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

viii) 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.

30.10.2026

Index : Yes/No
Internet : Yes/No
Speaking : Non Speaking Order
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M.JOTHIRAMAN, J.

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To

The Motor Accident Claims Tribunal,
III Court of Small Causes, Chennai .

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