

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON
17.04.2026PRONOUNCED ON
30.04.2026

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THE HON'BLE MR.JUSTICE K.KUMARESH BABU

CMA No. 2264 of 2023

N. Ganesan
S/o. Nandhagopal, No.258, 3 rd Street, South
Kesavaperumal Puram, Raja Annamalaipuram,
Chennai 28.

..Appellant(s)

Vs

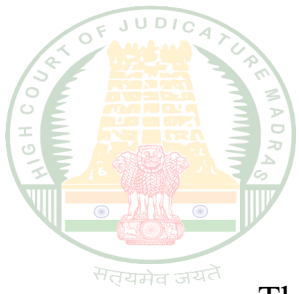
1. P. Vijay
S/o. Parivallal, No.27/35, Narayanasamy,
Garden 1 st Street, R.A. Puram, Chennai 28.
2. The Manager
United India Insurance Company Limited,
No.134, Greaves Road, 4 th Floor,
Chennai 600 006.

..Respondent(s)

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award dated 17.03.2023 and made in MACT OP No.5758/2019 on the file of the Motor Accident Claims Tribunal II Judge, Small Causes Court, Chennai.

For Appellant(s): Ms.S.R. Bhavani

For Respondent(s): R1 – Not ready in notice
Ms.R.Sree Vidhya for R2



JUDGMENT

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The present civil Miscellaneous Appeal has been filed seeking to enhance the award dated 17.03.2023 made in the MACTOP.No.5758 of 2019 on the file of the Motor Accident Claims Tribunal-II Judge, Small Causes Court, Chennai.

2. The facts leading to the present lis are that the claimant/petitioner, aged about 19 years and then pursuing B.Com. (Ist Year) at Mohamed Sathak College of Arts and Science, Sholinganallur, met with an accident on 13.08.2019, at Greenways Road, opposite the State Human Rights Office. While the claimant was travelling in his motorcycle bearing Registration No. TN 11 W4558 at about 04:00 hours, he was hit by another motorcycle bearing Registration No. TN 06 W 3634 which was coming from the opposite direction, driven in a rash and negligent manner by its rider, endangering public safety.

3. As a result of the said accident, the claimant sustained grievous injuries, including a fracture of the right leg bone, facial injury on the left cheek, fracture of three teeth and multiple other injuries. He was immediately admitted to the hospital, where he underwent treatment and was subsequently assessed with 27% permanent disability. The first and second respondents are the owner and insurer of the offending motorcycle, respectively. Hence, the claimant filed a petition in M.C.O.P. No. 5758 of 2019 before the Motor Accidents Claims



Tribunal, claiming compensation of Rs.20,00,000/- against the respondents.

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4. The first respondent, despite service of notice, failed to appear and contest before the Tribunal and was therefore, set as *ex parte* on 27.01.2020. The second respondent filed a counter, denying all the allegations and putting the claimant to strict proof of his claim. It was specifically contended that the accident was not caused by the vehicle insured with the second respondent and, therefore, the insurer is not liable to pay any compensation to the claimant.

5. Based on the pleadings of both parties, the learned Claims Tribunal framed the necessary points for consideration for the proper adjudication of the claim petition.

1. *Whether the accident took place due to rash and negligent act of the rider of the Motor Cycle bearing Registration No.TN 06 W 634?*
2. *Whether the Petitioner / Claimant had sustained injuries due to accident?*
3. *Whether the Respondents are liable to pay the compensation to the petitioner/claimant ?*
4. *Whether the Petitioner/Claimant is entitled for Compensation ? If so, from whom and what is the quantum ?*
5. *To what other relief the petitioner is entitled too?*



6. The claimant himself was examined as petitioner side's witness PW1 and exhibits Ex.P1 to Ex.P19 were marked as evidence.

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7. The learned Claims Tribunal after hearing both sides and perusing the materials available on records had discussed and determined the answers for the aforesaid points for consideration. Insofar as the Point No.1 is considered the learned Claims Tribunal held that the accident was caused due to the rash and negligence on the part of the rider of the 1st respondent's vehicle. As for the Point Nos.2 and 3 are considered, the learned Claims Tribunal had held that the claimant sustained injuries only due to the accident dated 13.08.2019 and hence the 1st and 2nd respondents are jointly and severally liable to pay the compensation. Since the Point Nos.1 to 3 are decided in favour of the claimant, the learned Claims Tribunal answered the Point Nos. 4 and 5 and held that the claimant is entitled to a sum of Rs.3,32,644/- rounded off to Rs.3,32,700/-. Therefore the learned Claims Tribunal *vide* its award dated 17.03.2023 had granted a compensation to a tune of Rs.3,32,700/- in favour of the claimant. Aggrieved by aforesaid award the claimant had filed the present Civil Miscellaneous Appeal before this Court, seeking to enhance the award amount and had impleaded the both respondents therein.

8. Heard Ms.S.R.Bhavani, learned counsel appearing on behalf of the appellant and Ms.R.Sree Vidhya, learned counsel appearing on behalf of the



second respondent.

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9. Ms.S.R.Bhavani, learned counsel appearing on behalf of the appellant/claimant submits that the learned Claims Tribunal has erred in awarding a meagre compensation, despite rightly holding that the accident occurred due to the rash and negligent driving by the rider of the offending vehicle belonging to the first respondent and insured with the second respondent. It is further submitted that the Tribunal failed to properly assess the severity of the injuries sustained by the appellant, namely, a closed fracture of the right tibia, facial injuries and loss of three teeth. The learned counsel would also contend that the Tribunal had failed to take into consideration the nature of treatment undergone by the appellant, including multiple surgeries. Its further submitted that the Claims Tribunal had also failed to consider fact that the appellant had been assessed with 27% permanent disability by the Medical Board and contends that the learned Tribunal erred in assessing compensation under the head of Disability by not adopting the multiplier method, despite the appellant having been assessed with 27% permanent disability by the Medical Board.

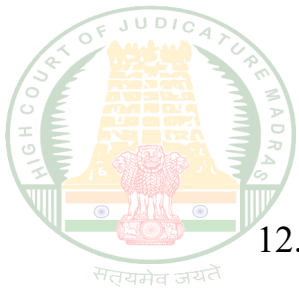
10. She vehemently contends that even while calculating the compensation for disability per percentage, the learned tribunal had erred in considering a meagre sum of Rs.5000/- per disability percentage and had placed the reliance



upon the judgement made by this court in the case of *United India Assurance Co.Ltd., Vs Saraswathi and another*, wherein this court had granted

compensation of Rs.10,000 per disability percentage. It is further submitted that the Tribunal has awarded only a meagre sum of Rs.50,000/- towards pain and suffering and has failed to grant any amount under the head of mental agony, without duly considering the nature of treatment undergone and the suffering endured by the appellant. She would further submit that the compensation awarded under other heads, such as extra nourishment, attendant charges and loss of amenities, are grossly inadequate and warrants substantial enhancement. In conclusion, it is submitted that the overall compensation awarded Claims Tribunal to the appellant is untenable and inadequate and it is therefore liable to be interfered with by this Court. In view of the above, the learned counsel seeks the indulgence of this Court for enhancement of the award.

11. The learned counsel appearing for the second respondent/ Insurance company would contend that there is no error in the compensation that has been Awarded. She would further submit that the amount that has been Awarded had been paid by the second respondent to the claimant and they have not filed any independent appeal. However, she would point that under two heads excessive compensation had been granted to the appellant. Pointing out the claim for transportation, she would submit that the claimant himself has restricted his claim to Rs.20,000/-, whereas, the Tribunal has granted Rs.37,000/-.

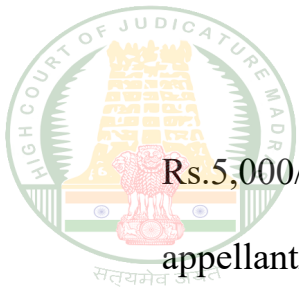


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12. Further having negated the claim for loss of income, there is no question of granting of any compensation towards the loss of amenities. The loss of amenities arise only when there is a loss of income. Hence, she would submit that there is no infirmity in the Award which requires any interference.

13. I have considered the submissions made on both sides and perused the materials available on record.

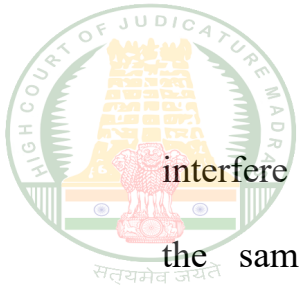
14. The primordial contention of the appellant is that the award granted by the Claims Tribunal is inadequate in nature and is liable to be enhanced. The perusal of the Ex.C1, the disability certificate clearly shows that the total disability of the appellant is assessed as 27%. Since the disability is not proven to be a functional disability the multiplier method cannot be applied to the present case. Further the judgement relied upon by the learned counsel of the appellant is not applicable to the facts of present case as the disability considered therein is progressive in nature, which is not in the instant case. On the other hand, considering the fact that the accident took place in the year of 2019 and relying upon the judgements made by this court in the cases of *N.Noorjahan Vs Anila Rachel & IFFCO Tokio General Insurance Co. Ltd* and *United India Insurance Co. Ltd. Vs K.Murugesan & another*, this Court is inclined to enhance the compensation awarded towards disability from



Rs.5,000/- per percentage to Rs.7,000/- per percentage. Accordingly, the appellant/claimant is entitled to a sum of Rs.1,89,000/- ($27\% \times \text{Rs.7,000/-}$) towards disability.

15. It is further to be noted that the learned Claims Tribunal has awarded a sum of Rs.37,727/- towards transportation charges, whereas the claim made by the appellant in the claim petition under the said head itself is restricted to Rs.20,000/-. Therefore, this Court is of the view that the claimant is entitled only to a sum of Rs.20,000/- towards transportation charges. It can be also seen that the Claims Tribunal had granted a sum of Rs. 50,000/- towards the Loss of Amenities. This question of loss of amenities does not arise when the claimant does not suffer a loss of income. Therefore it is the view of this court that learned Tribunal had erroneously granted a sum of Rs.50,000/- towards the loss of amenities and the claimant/appellant is not entitled to any compensation under the head of Loss in Amenities.

16. From the foregoing discussion, this Court is of the view that the actual quantum of compensation to which the appellant is entitled works out to Rs.3,18,917/-, which is lesser than the amount awarded by the learned Claims Tribunal. Though the Tribunal has erroneously awarded a sum of Rs.3,32,700/-, this Court is not inclined to interfere with the said award, inasmuch as the same has already been paid by the respondents. Hence, this Court finds no reason to



interfere with the award dated 17.03.2023 passed by the Claims Tribunal and the same is hereby stands confirmed. Accordingly the present Civil Miscellaneous Appeal stands dismissed. No costs.

30.04.2026

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

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To

- 1.The Motor Accident Claims Tribunal - II ,
Small Causes Court, Chennai.
- 2.The Section Officer,
VR Section,
Madras High Court,
Chennai.



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K.KUMARESH BABU, J.

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