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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-11-2026

CORAM

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

CMA No. 3626 of 2026

CNR: {HCMA012130752026}

Mageshwaran
S/o Rajabadar,
No.18, Thai Moogambikai Nagar,
2nd Street, Anagaputhur,
Chennai -600 070 .. Appellant

Case QR

Vs

1. Ashok Kumar
2. United India Insurance Company Limited
   Silingi Building,
   No. 134, Creams Road,
   Chennai- 600 006. . .Respondent(s)

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow appeal and to enhance the amount awarded in MCOP.No.5312 of 2022 on the file of Motor Accident Claims Tribunal, in the IVth Court of Small Causes, Chennai on 02.12.2025.

For Appellant(s) : Mr.U.Chithambaram

For R2 : Mr.D.Venkatachalam

JUDGMENT

Unsuccessful claimant has preferred this civil miscellaneous appeal seeking enhancement of compensation.

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2. The claim petition has been filed under Section 166 of the Motor Vehicles Act, and Rule 3 of the Motor Vehicles Rules, seeking compensation for the injuries sustained by the claimant, in a road accident.

3. According to the claimant, on 29.08.2022 at about 07.00 hours, while he was riding his motorcycle bearing Registration No.TN 85 1074 on the left side of the road near Meenambakkam bridge, the first respondent's Omni bus bearing Registration No.TN 16 H 1552 came from behind in the same direction in a rash and negligent manner and hit the claimant's motorcycle, thereby causing the accident. As a result, the claimant sustained grievous injuries all over his body.

4. It is the further case of the claimant that he was aged about 44 years and was earning a sum of Rs.15,000/- p.m. at the time of accident.

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

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

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7. Before the Tribunal, on behalf of the claimant, the claimant himself was examined as P.W.1, and Exs.P1 to P14 were marked. The Disability Certificate issued by the Medical Board was marked as Ex.C.1. On behalf of the second respondent, no witness was examined and no document was marked.

8. Upon appreciation of the evidence adduced on either side, the Tribunal found that the accident had occurred due to the rash and negligent driving of the driver of the offending vehicle. With regard to the quantum of compensation, the claimant appeared before the medical board, which assessed his disability at 39%. In the absence of proof of loss of earning capacity, the Tribunal adopted the percentage method and fixed a sum of Rs.8,000/- per percentage of disability, thereby awarding a sum of Rs.3,12,000/- under the head of permanent disability. The Tribunal also awarded compensation under various other heads, as detailed hereunder :-

S.No.	Heads of Compensation	Amount awarded by the Tribunal
1	Loss of income	Rs.1,65,000/-
2	Disability	Rs.3,12,000/-
3	Medical expenses	Rs. 64,506/-
4	Transportation	Rs. 7,000/-
5	Extra nourishment	Rs. 25,000/-
6	Damages to clothing and articles	Rs. 1,000/-

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7	Pain and sufferings	Rs. 50,000/-
8	Attender Charges	Rs. 20,000/-
9	Loss of amenities	Rs. 30,000/-
	Total	Rs.6,74,506 rounded off to Rs.6,74,500/-

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

10. The learned counsel for the appellant/claimant would submit that the Tribunal erred in fixing the monthly income at Rs.15,000/- is not proper. The Tribunal failed to consider that the claimant is working as a Mason, which is a skilled manual occupation and had sustained grievous fractures, in both lower limbs and his left hand, resulting in severe restrictions of movements and an inability to perform manual work. It is further contended that a sum of Rs.50,000/- awarded under the head of pain and sufferings is very meagre. The Tribunal also failed to take into consideration that the claimant had undergone inpatient treatment for 61 days and had also undergone surgery. Further, the compensation awarded under the head of transport expenses is also very meagre and the same has to be enhanced.

11. Per contra, the learned counsel appearing for the second respondent/Insurance Company would submit that, in the absence of proof of monthly income, the fixation of the claimant's monthly income at Rs.15,000/- is

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reasonable and proper. It is further submitted that the claim petition itself states that the claimant was earning a sum of Rs.15,000/- p.m. Therefore, the Tribunal fixing a sum of Rs.15,000/- as the notional monthly income of the claimant does not warrant any interference. The learned counsel would further submit that the compensation awarded for the treatment period for 11 months is on the higher side and requires reduction. The compensation awarded under the other heads is just and reasonable and does not call for any interference.

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

13. There is no dispute with regard to the manner of the accident, and negligence has been fixed on the part of the driver of the offending vehicle. The grievance of the appellant/claimant is that the compensation awarded by the Tribunal under the head of permanent disability is inadequate and warrants enhancement.

14. It is seen from the records that the claimant had undergone inpatient treatment from 29.08.2022 to 26.09.2022 and again from 26.09.2022 to 27.10.2022, totalling 61 days, for Grade III open fractures of the middle 1/3rd of both bones of the left leg, fractures of the 2nd and 3rd Metatarsal of the right foot and an open fracture of the neck of 5th Metacarpal of the left hand, at Rajiv

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Gandhi Government Hospital, Chennai, and the same is is reflected by Ex.P2 – Discharge summary issued by the Rajiv Gandhi Government Hospital. It is further seen that the claimant underwent surgery on 11.10.2022, wherein a superiorly based Transposition flap with split-thickness skin grafting(STSG) was performed and he was discharged on 27.10.2022. Considering the nature of injuries sustained, the claimant referred to the Regional Medical Board for assessment of disability. The Medical Board assessed his total physical disability at 39%. It is to be noted that though the fractures had united, the claimant continued to suffer from physical disability, particularly in climbing and descending stairs, squatting and kneeling. Considering the nature of injuries and the disability certificate issued by the Medical Board, and in the absence of proof of loss of earning capacity, the Tribunal rightly adopted the percentage method for awarding compensation under the head of permanent disability. Hence, the percentage method adopted by the Tribunal does not warrant any interference.

15. It is relevant to note that the accident occurred on 29.08.2022. The Tribunal fixing a sum of Rs.8,000/- per percentage of disability appears to be on the lower side. Considering the age of the claimant at the time of accident, this Court is inclined to enhance the amount to Rs.10,000/- per percentage of disability. Accordingly, the compensation under the head of permanent disability is recalculated as follows:-

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39% X Rs.10,000/- = Rs.3,90,000/-

16. It is also relevant to note that the Tribunal awarded compensation under the head of loss of income during the treatment period for 11 months appears to be reasonable and does not require any interference. The claimant had undergone inpatient treatment for 61 days. Having regard to the duration of inpatient treatment, a sum of Rs.7,000/- awarded by the Tribunal towards transport expenses appears to be inadequate. Hence, this Court is inclined to enhance the compensation under the said head to Rs.15,000/-. Similarly, a sum of Rs.20,000/- awarded towards attender charges is inadequate and this Court is inclined to enhance the same to Rs.40,000/-. The compensation awarded under the other heads is just and reasonable and is hereby confirmed.

17. In the light of the above discussion, the compensation awarded by the Tribunal under the heads of permanent disability, transport expenses and attender charges stands enhanced and modified. The revised compensation is tabulated hereunder :-

S.No.	Heads of Compensation	Amount awarded by this Court
1	Loss of income	Rs.1,65,000/-
2	Disability	Rs.3,90,000/-
3	Medical expenses	Rs. 64,506/-

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4	Transportation	Rs. 20,000/-
5	Extra nourishment	Rs. 25,000/-
6	Damages to clothing and articles	Rs. 1,000/-
7	Pain and sufferings	Rs. 50,000/-
8	Attender Charges	Rs. 40,000/-
9	Loss of amenities	Rs. 30,000/-
	Total	Rs.7,85,506 rounded off to Rs.7,85,500/-

18. In the result,

i) The Civil Miscellaneous Appeal is partly allowed.

ii) The compensation amount awarded by the Tribunal by enhancing from Rs.6,74,500/- to Rs.7,85,500/- 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).

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.248 of 2015 on the file of the Motor Accident Claims Tribunal/ IV Court of Small Causes, Chennai.

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

v) The appellant/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.

17.11.2026

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

To

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

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M.JOTHIRAMAN, J.

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