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CMA No. 3832 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-06-2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

CMA No. 3832 of 2025

R.Gopalakrishnan

..Appellant(s)

Vs

1. M/s.Dependo Logistics Solutions Pvt. Ltd
No.407, G.R.Complex, Ground Floor,
Anna Salai, Chennai – 600035.

2. TATA AIG General Insurance Co. Ltd.,
Samson Towers, 403, L,
Pantheon Road, Egmore,
Chennai 08.

..Respondent(s)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act to allow this Civil Miscellaneous Appeal by enhancing the compensation awarded in the Judgment and Decree dated 16.10.2025, passed in M.C.O.P.No.4904 of 2019, on the file of the Motor Accident Claims Tribunal, Chennai (In the II Court of Small Causes, Chennai).

For Appellant(s):

Mr.K.Balaji

For Respondent(s):

Mr.M.B.Raghavan
for M/s.M.B.Gopalan Associates for R2
R1-No Appearance



JUDGMENT

(Judgment of the Court was delivered by K.RAJASEKAR J.)

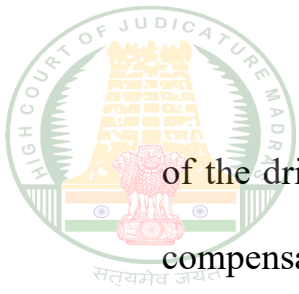
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The claimant in M.C.O.P.No.4904 of 2019, on the file of the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai, has come forward with this appeal seeking enhancement of compensation awarded on 16.10.2025.

2.According to the claimant, on 12.08.2019 at about 16.30 hours, when the claimant was driving his two wheeler bearing registration No.TN 02 AL 8827 in GST Road, Tambaram to Chengalpet, a Van bearing registration No.TN09 CQ 1085 driven by its driver in a rash and negligent manner dashed against him, which resulted in causing grievous injuries. Hence, the claimant by invoking Section 166 of the Motor Vehicles Act prayed for award of compensation of Rs.81,00,000/-.

3.The first respondent owner of the vehicle remained ex-parte. The second respondent contested the claim disputing the manner in which the accident had taken place and also the quantum of compensation.

4.The Tribunal, based on the oral and documentary evidence placed on record, held that the accident had occurred due to the rash and negligent driving

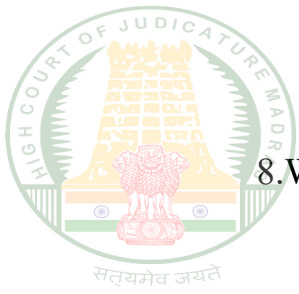


of the driver of the Van, hence, they are jointly and severally liable to pay the compensation to the claimant with interest and costs. Further, the Tribunal also quantified the compensation at Rs.5,52,190/-.

5. Aggrieved over the same, this appeal has been filed by the claimant and we have also heard both sides.

6. The learned counsel for the claimant submitted that though the claimant was discharged after some time, his left hand is almost non functional and he is not able to lift it up and use it for any purpose, thereby, the claimant has lost his earning capacity. The Medical Board has also assessed his disability as 50% and the Tribunal has not appreciated the same. Instead of awarding compensation under the loss of earning capacity, the Tribunal has awarded compensation for disability alone by adopting percentage method, i.e., 3,000 per percentage of the disability. Therefore, he sought modification of the same and grant of compensation under the head loss of earning capacity and also submitted that compensation has not been awarded under various eligible heads including loss of marital prospects and thereby prayed to enhance the same.

7. The learned counsel for the insurance company submitted that the Tribunal based on the assessment made by the Medical Board has fixed the disability as non functional disability and prayed to confirm the same.



8. We have considered the submissions and perused the material records.

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9. When the matter was taken up for hearing today, the injured/claimant is also present. We have also personally seen him. In the discharge summary recorded by the SRM Hospital, Kattangulathur, at the time of treatment which was marked as Ex.P6, P9 and P10, major injuries were recorded as follows:

“Diffuse Axonal injury LT Brachial Plexus injury C7 C8 D1 – Nerve Root injury and Left Brachial Plexus injury”

10. For the injuries sustained, he had also continuously undergone treatment from 12.07.2019 to 16.08.2019 and thereafter, undergone further treatment from 10.06.2022 to 23.06.2022 and he was admitted in Sri Ramachandra Hospital and one surgery was conducted on 16.06.2022 and he was again admitted from 26.07.2022 to 01.08.2022 and one surgery was conducted in the abovesaid hospital on 28.07.2022. According to the Medical Board, the claimant has suffered 50% disability. The claimant also suffered nerve root injury which resulted in loss of function on the left hand. Even for lifting the left hand, he requires the support of the right hand and it is almost like amputated.

11. We are of the view that these injuries have totally reduced his regular function of using his hand. He cannot use his left hand, thereby it has resulted



in loss of earning capacity. We have also carefully analysed the legal principles regarding the same by following *Rajkumar Vs. Ajaykumar & another* reported in **2010 (2) TNMAC 581 SC**. We are of the view that the injuries sustained has practically reduced the earning capacity of the claimant herein, thereby, the claimant is entitled for compensation under the head loss of earning capacity and the Tribunal has failed to appreciate this fact. Hence, we are inclined to fix the notional income of the injured as Rs.18,000/- per month. In the light of the judgment of the Hon'ble Supreme Court in *Pranay Sethi's* case, we are inclined to fix the future prospects of the claimant at 40% and applying the appropriate multiplier, namely, 18, the loss of earning capacity would be as follows:

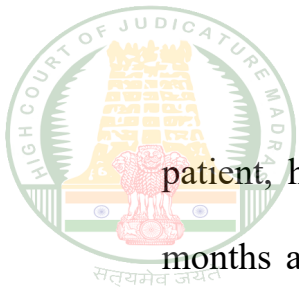
Monthly Income	:	Rs. 18,000/-
Add: Future Prospects		
40% of Rs.18,000/-	:	Rs. 7,200/-

		Rs. 25,200/-
Annual Income (Rs.25,200 x 12)		Rs. 3,02,400/-
Functional disability 50%	:	Rs. 1,51,200/-

		Rs. 1,51,200/-
Multiplier		x 18

Loss of earning capacity	:	Rs.27,21,600/-

12.Considering the nature of the treatment and injuries suffered, Rs.50,000/- is awarded under the head pain and suffering. As far as the attender charges are concerned, the claimant has undergone treatment for 57 days as In-



patient, hence, we are inclined to grant attender charges for a period of four months as Rs.72,000/- (Rs18,000 x 4 months). Since compensation has been awarded under the head loss of earning capacity, Rs.25,000/- under the head loss of amenities is awarded only as a token.

13.The modified compensation is as hereunder:

a. Loss of earning capacity	: Rs. 27,21,600/-
b.Pain and suffering	: Rs. 50,000/-
c.Transportation	: Rs. 50,000/-
d.Medical Bills	: Rs. 1,90,090/-
e.Extra Nourishment	: Rs. 25,000/-
f.Attender charges	: Rs. 72,000/-
g.Damage of clothes	: Rs. 1,000/-
h.Loss of amenities	: Rs. 25,000/-
I.Loss of marital prospects	: Rs. 1,00,000/-
Total Compensation	: Rs.32,34,690/-

14.In the result, the Civil Miscellaneous Petition stands partly allowed.

The compensation of **Rs.5,52,190/-** awarded by the Tribunal is hereby enhanced to **Rs.32,34,690/-** (Rupees Thirty Two Lakhs Thirty Four Thousand Six Hundred and Ninety). The Insurance Company is directed to deposit the enhanced compensation of **Rs.32,34,690/-** less the amount already deposited,



together with interest at 7.5% p.a. from the date of petition till the date of deposit within a period of six (6) weeks from the date of receipt of a copy of this judgment. On such deposit being made by the Insurance Company, the claimant is permitted to withdraw the same along with accrued interest and costs, less the amount, if any already withdrawn by him, by filing necessary application before the Tribunal. Additional Court fees, if any, to be paid by the claimant on the enhanced compensation. No costs.

(C.V.K.,J.) (K.R.S.,J.)
23-06-2026

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

SLI

To

Motor Accident Claims Tribunal,
II Court of Small Causes, Chennai.



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**C.V.KARTHIKEYAN, J.
AND
K.RAJASEKAR, J.**

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