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C.M.A.(MD).No.588 of 2



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : **23.03.2026**

CORAM

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
and
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN**

C.M.A.(MD).No.588 of 2023

V.Jeyakumar

... Appellant

Vs.

- 1.Nalini Mala
- 2.S.Ganeshraja
- 3.The Branch Manager,
United India Insurance Company Limited,
Thoothukudi Branch,
Thoothukudi.

Prayer:- Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award passed in M.C.O.P.No.45 of 2018 dated 20.12.2022 on the file of the Motor Accidents Claims Tribunal, Theni and allow the above Civil Miscellaneous Appeal.

For Appellant : Mr.J.Jeyakumaran

For Respondent : Mr.C.Karthick for R3



J U D G M E N T

(Judgment of the Court was delivered by **K.K.RAMAKRISHNAN,J.**)

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The claimants filed this appeal challenging the quantum of the award passed in M.C.O.P.No.45 of 2018, dated 20.12.2022, by the Motor Accident Claims Tribunal, Theni.

2.The claimants filed the claim petition in M.C.O.P.No.45 of 2018, claiming a sum of Rs.50,00,000/- (Rupees Fifty Lakhs only) as compensation for the injured. By the award, dated 20.12.2022, the Tribunal awarded a sum of Rs.18,91,692/- (Rupees Eighteen Lakhs Ninety One Thousand and Six hundred and Ninety Two only) as compensation along with 7.5% interest from the date of filing of the claim petition.

3. Facts of the Case:

The case of the appellant is that, while he was driving an Eicher lorry bearing Registration No. TN-69-BD-7899 from Tuticorin to Bangalore, in the early morning on 28.03.2018 at about 1:50 a.m., near Kariyapatti–Kallikudi bypass, a tipper lorry bearing Registration No.TN-69-AH-0444, driven by the second respondent and proceeding ahead of the appellant's vehicle, suddenly swerved to the left side without any signal or indication and in a negligent manner. As a result, incriminating the appellant's vehicle dashed against the



said tipper lorry. In the impact, the appellant and the cleaner sustained grievous injuries. The appellant suffered crushing injuries to his left leg, necessitating amputation, and also sustained a fracture in his right leg, in which a plate was surgically inserted. He underwent inpatient treatment for about 25 days before being discharged. A criminal case was registered by the jurisdictional police in Crime No.92 of 2018 under Sections 279, 338 and 304-A IPC. Upon completion of investigation, a final report was filed fixing negligence on the driver of the tipper lorry, which was insured with the third respondent insurance company. The deceased worked as a driver in Bhuneswari Transport Company and earning more than a sum of Rs.30,000/- as monthly income at the time of the accident. Therefore, the appellant has filed the claim petition in M.C.O.P.No.45 of 2018 on the file of the Motor Accident Claims Tribunal, Theni, claiming a sum of Rs.50,00,000/- (Rupees Fifty Lakhs Only) as compensation.

3.1.The insurance company filed a counter denying the allegation stated in the petition and they disputed the quantum and also disputed the negligence on the part of the first respondent. They also denied all the averments made in the claim petition and contended that the accident did not occur due to the rash and negligent driving of the driver of the first respondent and he himself invited the accident and prayed for dismissal of the claim petition.



3.2. The claimant to prove the claim examined two witnesses and marked Ex.P1 to Ex.P17. The insurance company has neither examined any witness nor produced any documents.

4. Finding of the Tribunal:-

The learned Tribunal Judge considering the materials available on records, has held that the accident happened due to the rash and negligent driving of the driver of the lorry, and based on the various documents, namely, Ex.P.1 and Ex.P.17, fixed the monthly income of the deceased as Rs.9,000/- and added 40% for future prospect considering his age of 38 years at the time of the accident and applied multiplier 15 after the statutory deduction of 1/3rd for his personal expenditure and has arrived loss of income of Rs.16,20,000/- and adding the conventional damages the Tribunal awarded total compensation of Rs.2,71,692/- with interest of 7.5%, vide impugned order dated 20.12.2018 under the following heads:-

Heads	Amount in Rupees
Loss of Income	16,20,000/-
Pain and Suffering	50,000/-
Extra nourishment	10,000/-
Attendant's charges	10,000/-
Transportation	10,000/-
Damages of cloths	5,000



Heads	Amount in Rupees
Medical Expenses	1,86,692/-
Total	18,91,692/-

Aggrieved over the quantum arrived by the learned Tribunal Judge, the claimants have filed the present appeal to enhance the compensation.

5.Submission of the learned counsel for the appellants/ claimants:

The learned counsel further submitted that the appellant had suffered amputation of one leg and severe injuries in the other leg requiring surgical intervention, including implantation of a plate, and had undergone prolonged treatment. However, only a sum of Rs.50,000/- was awarded towards pain and suffering, which is grossly inadequate. It was also contended that the Tribunal failed to properly award amounts towards attendant charges and completely omitted to grant compensation for the expense of prosthetic limb. Therefore, the learned counsel for the appellant seeks enhancement of compensation under various heads.



6.Submissions of the learned counsel for the Insurance

company/third respondent:

Per contra, the learned counsel for the third respondent insurance company submitted that the accident occurred due to contributory negligence on the part of the appellant as well, and the manner of occurrence itself establishes the same. It was further contended that once compensation for loss of earning capacity has been assessed at 100%, awarding substantial amounts under the head of pain and suffering would not be justified. The Tribunal has awarded a just and reasonable compensation, and therefore, no interference is warranted. Hence, the respondent seeks dismissal of the appeal.

7.This Court considered the rival submissions made by the learned counsel appearing for the appellant and the learned counsel appearing for the insurance company/third respondent and perused the materials available on record.

8. The following points arise for consideration of this appeal:

8.1. Whether the negligence is correctly fixed on the driver of the vehicle insured with the appellant?

8.2. Whether the compensation granted is in accordance with law?

8.3. Whether the claimant/appellant is entitled to receive enhanced



compensation or not?

9.Discussion on the negligence:

Upon perusal of the impugned award and the materials available on record, this Court is unable to accept the contention advanced by the learned counsel for the third respondent—Insurance Company that contributory negligence ought to be attributed to the appellant. It is pertinent to note that the present appeal has been preferred only by the claimant seeking enhancement of compensation, and not by the Insurance Company challenging the finding of negligence fixed upon the driver of the insured vehicle. In the absence of any independent appeal or cross-objection by the Insurance Company, the finding of negligence has attained finality. Even otherwise, no contra evidence has been adduced on the side of the Insurance Company to substantiate the plea of contributory negligence. In such circumstances, the said contention is liable to be rejected.

10.Discussion on quantum:

Insofar as the quantum of compensation is concerned, it is an undisputed fact that the appellant was employed as a heavy vehicle driver holding a valid licence. The nature of injuries sustained by the appellant is grave and permanent. He suffered amputation of his left leg below the knee and also



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sustained fracture injuries in the right leg, which required surgical intervention with implantation of plates. The appellant was hospitalised for more than 26 days and underwent multiple procedures. The injuries have resulted not only in permanent disability but also in prolonged pain and suffering, loss of mobility, and deprivation of normal amenities of life. The appellant is constrained to endure lifelong discomfort, inconvenience, and functional limitations, particularly considering the nature of his avocation as a driver. The Tribunal has awarded a sum of **Rs.50,000/-** towards pain and suffering, which, in the considered view of this Court, is grossly inadequate having regard to the nature of injuries, amputation, and prolonged treatment. Accordingly, the same is **enhanced to Rs.2,50,000/-**. Further, no amount has been awarded towards **loss of amenities and convenience**. Considering the permanent disability and its impact on the quality of life, this Court deems it appropriate to award a sum of **Rs.1,00,000/-** under the said head. With regard to attendant charges, taking into account the period of hospitalisation (26 days) and the continued need for assistance during convalescence, the amount is **enhanced to Rs.1,00,000/-**.

10.1. In respect of income, the appellant had produced Ex.P17 to substantiate his earnings, which was marked without objection. However, the Tribunal fixed the monthly income at Rs.9,000/-, which appears to be on the lower side. Considering that the accident occurred in the year 2018 and the



appellant was employed as a heavy vehicle driver, this Court fixes the notional monthly income at Rs.16,000/-. Further, as per the law laid down by the Hon'ble Supreme Court and also applying the multiplier method, considering the amputation of the leg, grant a sum of Rs.28,80,000/- towards loss of income.

$$16,000 \times 15 \times 12 = \text{Rs.}28,80,000/-$$

10.2.The appellant is also entitled to addition towards future prospects. In line with settled principles, an addition of 40% towards future prospects is awarded. The Tribunal has rightly assessed the loss of earning capacity at 100%, taking into account the amputation and the nature of employment of the appellant as a driver, which this Court finds no reason to interfere with.

10.3.It is well settled that, in cases of injury resulting in permanent disability, the compensation awarded must commensurate with the lifelong hardship, pain, and suffering endured by the injured claimant. Unlike in cases of death, where compensation is assessed on loss to the dependants, in injury cases the claimant is required to live with the disability, discomfort, and loss of amenities for the remainder of his life. The Hon'ble Supreme Court, in catena of decisions, has emphasised that compensation in cases of grievous injury and permanent disability, particularly involving amputation, should be awarded on



higher side than in death case, taking into account the continuous physical and mental agony, functional limitations, and diminished quality of life. In this regard, this Court places reliance upon the principles laid down in National Insurance Co. Ltd. v. Pranay Sethi and Sarla Verma v. Delhi Transport Corporation, along with other binding precedents governing assessment of just compensation.

10.4. Applying the aforesaid principles to the facts of the present case, and having regard to the nature of injuries, amputation, and the permanent impact on the appellant's life and livelihood, this Court finds sufficient and justifiable grounds to enhance the compensation awarded by the Tribunal. Accordingly, the compensation is enhanced under the relevant heads as discussed above.

11. Conclusion:

For the foregoing reasons, the compensation awarded by the Tribunal to the claimants is re-determined as follows:

Heads	Amount awarded by the Tribunal	Re-quantified Amount by this Court	Status
Loss of income	16,20,000/-	28,80,000/-	enhanced
Pain and suffering	50,000/-	2,50,000/-	enhanced
Extra Nourishment	10,000/-	10,000/-	confirmed



Heads	Amount awarded by the Tribunal	Re-quantified Amount by this Court	Status
Attendant's charges	10,000/-	1,00,000/-	enhanced
Transportation Expenses	10,000/-	10,000/-	confirmed
Loss of damages and cloths	5,000/-	5,000/-	confirmed
Medical Expenses	1,86,692/-	1,86,692/-	confirmed
Loss of amenities and convenience	---	1,00,000/-	awarded
Total	18,91,692/-	35,41,692/-	Enhanced

12.In the result, the Civil Miscellaneous Appeal is partly allowed and The Compensation awarded in M.C.O.P.No.45 of 2018 on the file of the Motor Vehicle Accidents Claims Tribunal, Theni, dated 20.12.2022 is hereby enhanced from Rs.18,91,692/- to Rs.35,41,692/-. The appellant/Insurance Company is directed to deposit the entire award amount within a period of six weeks from the date of receipt of a copy of this judgment and the claimant is permitted to withdraw the same. There shall be no order as to costs.

[N.A.V.,J.] & [K.K.R.K.,J.]
23.03.2026

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To

1. The Motor Vehicles Accident Claims Tribunal,
Theni.

2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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N.ANAND VENKATESH,J.
and
K.K.RAMAKRISHNAN,J.

ORDER

(Order of the Court was made by Mr.Justice.K.K.RAMAKRISHNAN)

The case is posted for being mentioned.

2.The learned counsel for the appellant submitted that there is an inadvertent mistake in calculating the loss of income without adding 40% of future prospects while calculating monthly income of Rs.16,000/- of the injured claimant/appellant in paragraph No.10.1 and 10.2.

3.He also submitted that in paragraph No.12, there was no mentioning of interest for the enhanced award amount.

4.This Court heard the learned counsel appearing on either side.



5. On perusal of the order, it is evident that there was an error in not adding 40% towards future prospects, while calculating the monthly income of the appellant. The said error has now been rectified and the compensation is recalculated accordingly.

6. In result, this court inclines to substitute paragraph Nos. 10.1, 10.2 and 12 original order dated 23.03.2026 as follows:

10.1. In respect of income, the appellant had produced Ex.P17 to substantiate his earnings, which was marked without objection. However, the Tribunal fixed the monthly income at Rs.9,000/-, which appears to be on the lower side. Considering that the accident occurred in the year 2018 and the appellant was employed as a heavy vehicle driver, this Court fixes the notional monthly income at Rs.16,000/-. Since the appellant was driver and considering the amputation, the Tribunal has rightly assessed loss of earning capacity at 100% and applied the multiplier method to calculate the loss of income as per the law laid down by the Hon'ble Supreme Court.

10.2. Therefore, the amount of loss of income is recalculated as follows:

monthly income of the appellant fixed at =Rs.16,000/-

40% of Future Prospects calculated as =Rs.6,400/-



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total monthly income

=Rs.22,400/-

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Considering the age of the appellant 36 multiplier 15 was adopted and the loss of income was redetermined as follows:

22400 X 15 X 12 =Rs.40,32,000/-

11.Conclusion:

For the foregoing reasons, the compensation awarded by the Tribunal to the claimants is re-determined as follows:

Heads	Amount awarded by the Tribunal	Re-quantified Amount by this Court	Status
Loss of income	16,20,000/-	40,32,000/-	enhanced
Pain and suffering	50,000/-	2,50,000/-	enhanced
Extra Nourishment	10,000/-	10,000/-	confirmed
Attendant's charges	10,000/-	1,00,000/-	enhanced
Transportation Expenses	10,000/-	10,000/-	confirmed
Loss of damages and cloths	5,000/-	5,000/-	confirmed
Medical Expenses	1,86,692/-	1,86,692/-	confirmed
Loss of amenities and convenience	---	1,00,000/-	awarded
Total	18,91,692/-	46,93,692/-	Enhanced

12.In the result, the Civil Miscellaneous Appeal is partly allowed and The Compensation awarded in M.C.O.P.No.45 of 2018 on the file of the Motor



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Vehicle Accidents Claims Tribunal, Theni, dated 20.12.2022 is hereby enhanced from Rs.18,91,692/- to Rs.46,93,692/- with interest of 7.5% from the date of filing of the petition in M.C.O.P.No.45 of 2018 on the file of the Motor Vehicle Accidents Claims Tribunal, Theni. The appellant/Insurance Company is directed to deposit the entire award amount within a period of six weeks from the date of receipt of a copy of this judgment and the claimant is permitted to withdraw the same. There shall be no order as to costs.

[N.A.V.J] & [K.K.R.K.J]
24.04.2026

NCC :Yes/No
Internet :Yes/No
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