



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.2510 of 2022

Viknesh

..Appellant

.VS.

1.K.E.Abudl Khadar

2.The Oriental Insurance Company Limited,
Rep. by its Manager, Parimalam complex,
2nd Floor, 11, EVN Road, Erode 638 011.

3.The Oriental Insurance Company Limited,
Rep. by its Manager, Bazar Street,
Bhavani Town & Taluk.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the award and judgment made in MCOP No.537 of 2013 on the file of the Motor Accident Claims Tribunal cum Subordinate Court, Bhavani, Erode District dated 25.09.2015 and for enhancement of compensation.

For Appellant : Ms.T.Gayathri

For Respondents : Mr.J.Vijaya Raghavan for R2 and R3



JUDGMENT

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The claimant not being satisfied with the quantum of compensation fixed by the Tribunal has filed this appeal against the Award passed by the Motor Accident Claims Tribunal, Bhavani, Erode District in MCOP No.537 of 2013, dated 25.09.2015, seeking for enhancement of compensation.

2.The case of the appellant is that he was travelling in a two wheeler on 20.06.2013 at Kauveri Road and at about 12.05 hours when the vehicle was near Sathya weigh bridge, the offending vehicle was driven in a rash and negligent manner and it dashed on the two wheeler and as a result, the claimant sustained the following injuries:

- a) Multiple malunited fractures of foreheads in right frontal bone, right temporal bone, lateral wall of right orbital bones, both sides of maxilla bones and both sides of nasal bones (defective bony hold area present in the right side frontal and temporal bones)
- b) Malunited fracture radius bone in right side of wrist
- c) Malunited fractures of lower parts of left radius and ulna bones.



3.The claimant therefore filed the claim petition before the Tribunal seeking for payment of compensation.

4.The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the offending vehicle viz., the lorry. Having come to such a conclusion, the Tribunal was pleased to fix the total compensation payable at Rs.3,22,000/- in the following manner:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Permanent Disability (64 x 3000)	1,92,000
2.	Medical Expenses	50,000
3.	Pain and Sufferings	20,000
4.	Loss of Amenities	25,000
5.	Attender Charges	10,000
6.	Extra Nourishment	10,000
7.	Transportation Charges	15,000
	Total	3,22,000

5.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.



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6.The claimant not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal before this Court seeking for enhancement of compensation.

7.The claimant has filed CMP No.9514 of 2024 to receive additional documents which are the medical bills and the receipts given by the Doctor who treated the claimant, totally amounting to a sum of Rs.43,584/-. This petition is also taken up along with the main appeal.

8.Heard Ms.T.Gayathri, learned counsel appearing on behalf of the appellant and Mr.J.Vijaya Raghavan, learned counsel appearing on behalf of the 2nd & 3rd respondents.

9.This Court has carefully considered the submissions made on either side and also the materials available on record.

10.The injuries sustained by the appellant in the accident has been taken note of by the Tribunal and for proper appreciation, the same is extracted hereunder:

மனுதாரருக்கு சாலை விபத்தினால் தலைப்பகுதி, இடது
மணிக்கட்டு, வலது மணிக்கட்டு எலும்புகள் குறிப்பாக வலது



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பக்க தலைப்பகுதியிலுள்ள பிராண்டல் எலும்பு, டெம்போரல் எலும்பு, வலது கண் குழியின் வெளிபக்க எலும்புகள், மெல் தாடையிலுள்ள இருபக்க மேக்ஸில்லா எலும்புகள், மற்றும் முக்கு எலும்புகள் உடைந்து கோணலாக கூடியுள்ளதாகவும், எனவே மனுதாரருக்கு 64 சதவீதம் ஊனம் இருப்பதாக குறிப்பிட்டு ம.சா.ஆ.12. ஊனச் சான்றிதழை வழங்கியுள்ளார். ம.சா.3. ஆக விசாரிக்கப்பட்ட மற்றொரு மருத்துவர் தன் சாட்சியத்தில், தான் மனுதாரருக்கு சிகிச்சையளித்ததாகவும், குறிப்பாக அறுவை சிகிச்சை செய்ததாகவும், வலது புற மண்டை ஓட்டின் ஒரு பகுதி அறுவை சிகிச்சையில் அகற்றப்பட்டதாகவும் சாட்சியமளித்துள்ளார்.

11.The above injuries were taken into consideration and the disability was assessed at 64%. It is clear that the appellant has sustained very grievous injuries not only in the wrist in both hands but also in the face. He had to undergo an operation, whereby, a small portion on the right side of his skull was removed. It is also seen that the appellant had taken treatment as an inpatient for nearly 10 days and the after effects of the accident was also suffered by the appellant, since he gets severe pain in his head and also giddiness. In view of the same, the compensation that has been granted by the Tribunal under some of the heads requires enhancement.

12.The appellant has filed CMP No.9514 of 2024 to mark additional documents which are the medical bills and the receipts that were given by the

Doctors for the treatment given to the appellant. This Court directed the learned



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counsel for the respondent Insurance Company to go through the bills that were filed in this appeal and to see if there is any duplication of bills which have already been marked before the Tribunal as Ex.P2 series. The learned counsel on verifying the same, submitted that there is no duplication of bills and that he leaves it to this Court to consider the additional compensation claimed under the head of medical expenses.

13.In the light of the above submission, the medical bills and the Doctor fee receipts are marked as Ex.P15 series. This Court is inclined to act upon these bills/receipts and increase the compensation under the head of medical expenses by Rs.43,584/-

14.This Court is also inclined to enhance the compensation under the head of pain and sufferings to Rs.50,000/-, attender charges to Rs.20,000/- and extra nourishment to Rs.25,000/-

15.In the light of the above discussion, the compensation fixed by the Tribunal is modified as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Permanent Disability (64 x 3000)	1,92,000
2.	Medical Expenses	50,000



S.No	Compensation awarded under the head	Amount (in Rs.)
3.	Medical Expenses (through additional documents)	43,584
4.	Pain and Sufferings	50,000
5.	Loss of Amenities	25,000
6.	Attender Charges	20,000
7.	Extra Nourishment	25,000
8.	Transportation Charges	15,000
9.	Future Medical Expenses	5,016
	Total	4,25,600

16.Considering the nature of injuries suffered by the claimant and the continuous treatment that he has to take, more particularly, since there are some facial deformities, this Court is inclined to round off the total compensation to Rs.4,25,600/-. The difference of the amount shall be towards the head of future medical expenses.

17.The compensation awarded by the tribunal at Rs.3,22,000/- is enhanced to Rs.4,25,600/-. The second respondent insurance company is directed to deposit the enhanced compensation of Rs.4,25,600/-, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within



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N. ANAND VENKATESH., J

ssr

a period of four weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.1,03,600/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay period of 1849 days. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

18.This Civil Miscellaneous Appeal stands allowed in the above terms. No Costs.

**29.04.2024
(2/2)**

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
ssr

To

The Motor Accident Claims Tribunal cum Subordinate Court,
Bhavani, Erode District.

CMA No.2510 of 2022