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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.2613 of 2021

R.Perumal .. Appellant/Petitioner  
Vs.

1. TVS Communication Solution Limited,  
Peramanur Village, M.M.Nagar,  
Chengelpet, Kancheepuram District - 603 209.
2. Saveetha Institute of Medical and Technical Sciences,  
Saveetha Nagar, Thandalam,  
Sriperumbudur Taluk,  
Kancheepuram District - 631 501.
3. United India Insurance Company Limited,  
Motor Third Party Claims Hub,  
Silingi Building, 4th Floor,  
No.132, Greaves Road,  
Chennai - 600 008. .. Respondents/Respondents  
(R1 & R2 Exparte before the Tribunal)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 seeking to set aside the judgement and decree dated 08.02.2021, made in M.C.O.P.No.7090 of 2017, on the file of the Motor Accidents Claims Tribunal, III Court of Small Causes, Chennai.

For Appellant : Mr.Amar Dineshbhai Pandiya

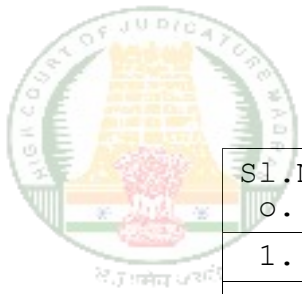
For Respondent 3 : Mr.R.Rajesh

#### J U D G M E N T

(The case has been heard through video conference)

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned Award dated 08.02.2021, passed by the Motor Accidents Claims Tribunal, III Court of Small Causes, Chennai in M.C.O.P.No.7090 of 2017.

2. The appellant/claimant not satisfied with the quantum of compensation awarded by the Tribunal has preferred this appeal seeking for enhancement. The details of the compensation awarded by the Tribunal under the impugned Award are as follows:



| Sl.N<br>o. | Heads                                      | Amount in<br>Rs. |
|------------|--------------------------------------------|------------------|
| 1.         | Towards Pain and Sufferings                | 50,000           |
| 2.         | Extra Nourishment & Transport              | 50,000           |
| 3.         | Disability 9% @ Rs.5,000/-                 | 27,000           |
| 4.         | Medical Bills                              | 5,30,185         |
| 5.         | Loss of Amenities                          | 50,000           |
| 6.         | Damage to clothes                          | 1,000            |
| 7.         | Attender charges                           | 13,200           |
| 8.         | Loss of earnings for period of 8<br>months | 45,000           |
|            | Total                                      | 7,66,385         |

3. The appellant/claimant sustained the following injuries on 01.11.2017, as a result of the accident caused by the vehicle insured with the third respondent:

"Head injury, traumatic brain injury, fracture in right scapula, fracture symphysis menth, right thumb crush injury, fracture in right ribs 1, 3, 4, 5, 9, fracture in vertebra and other multiple injuries."

4. The Medical Board has assessed the appellant/claimant disability at 9%, which has been accepted by the Tribunal, however the Tribunal has not given due consideration to the nature of injuries sustained by the appellant/claimant while assessing the disability compensation. The appellant/claimant was hospitalized for 33 days, which is not disputed by the respondents. By giving due consideration to the nature of the injuries sustained by the appellant/claimant and the period of his hospitalization, the Tribunal ought to have given higher disability compensation. Having given due consideration to the same, this Court enhances the disability compensation to Rs.45,000/- calculated at Rs.5,000/- per percentage of disability for 9% disability assessed by the Medical Board, which is also accepted by the Tribunal instead of Rs.27,000/- assessed by the Tribunal calculated at the rate of Rs.3,000/- per percentage of disability for the 9% of disability suffered by the appellant/claimant.

5. The Tribunal has awarded compensation of Rs.50,000/- towards pain and sufferings, Rs.50,000/- towards transportation and extra nourishment, Rs.5,30,185/- towards medical bills (supported by medical bills), Rs.50,000/- towards loss of amenities and Rs.1,000/- towards damage to clothes, which cannot be considered to be inadequate as alleged by the appellant/claimant and the same is confirmed by this Court.

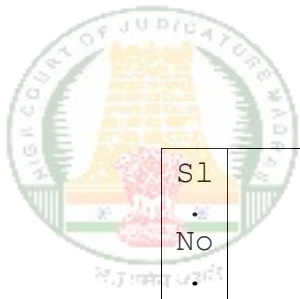


6. Further the Tribunal has awarded lesser compensation towards attender charges at Rs.13,200/- and towards loss of income at Rs.45,000/-. This Court is of the considered view that if the Tribunal has taken into consideration the nature of injuries sustained by the appellant/claimant and the long period of his hospitalization, the Tribunal ought to have awarded higher compensation towards attender charges and loss of income. This Court enhances the compensation towards attender charges from Rs.13,200/- to Rs.25,000/-. In so far as the loss of income is concerned, the Tribunal has awarded compensation of Rs.45,000/- calculated at Rs.15,000/- per month for a period of three months. This Court is of the considered view that at least for a period of eight months the appellant/claimant would have been unable to do his regular avocation. Therefore, this Court enhances the compensation towards loss of income during the treatment period from Rs.45,000/- to Rs.1,20,000/- calculated at the rate of Rs.15,000/- per month for a period of eight months.

7. The Tribunal has failed to award any compensation towards future medical expenses, which the appellant/claimant is legally entitled to considering the fact that he has sustained grievous injurious referred to supra, which requires him to take regular medical treatment in future also. After giving due consideration to the nature of injuries sustained by the appellant/claimant, this Court awards compensation of Rs.45,000/- towards future medical expenses.

8. For the foregoing reasons, the compensation awarded by the Tribunal under the impugned Award is enhanced to Rs.9,16,185/- instead of Rs.7,66,385/- awarded by the Tribunal. The details of the compensation now awarded by this Court is detailed hereunder:

| Sl<br>No | Description                   | Amount<br>awarded<br>by the<br>Tribunal<br>(Rs.) | Amount<br>awarded by<br>this Court<br>(Rs.) | Award<br>confirmed or<br>enhanced or<br>set aside or<br>granted or<br>reduced<br>(Rs.) |
|----------|-------------------------------|--------------------------------------------------|---------------------------------------------|----------------------------------------------------------------------------------------|
| 1.       | Towards Pain and Sufferings   | 50,000                                           | 50,000                                      | Confirmed                                                                              |
| 2.       | Extra Nourishment & Transport | 50,000                                           | 50,000                                      | Confirmed                                                                              |
| 3.       | Disability 9% @ Rs.5,000/-    | 27,000                                           | 45,000                                      | Enhanced                                                                               |
| 4.       | Medical Bills                 | 5,30,185                                         | 5,30,185                                    | Confirmed                                                                              |
| 5.       | Loss of Amenities             | 50,000                                           | 50,000                                      | Confirmed                                                                              |
| 6.       | Damage to clothes             | 1,000                                            | 1,000                                       | Confirmed                                                                              |
| 7.       | Attender charges              | 13,200                                           | 25,000                                      | Enhanced                                                                               |



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| Sl<br>No. | Description                                | Amount<br>awarded<br>by the<br>Tribunal<br>(Rs.) | Amount<br>awarded by<br>this Court<br>(Rs.) | Award<br>confirmed or<br>enhanced or<br>set aside or<br>granted or<br>reduced<br>(Rs.) |
|-----------|--------------------------------------------|--------------------------------------------------|---------------------------------------------|----------------------------------------------------------------------------------------|
| 8.        | Loss of earnings for<br>period of 8 months | 45,000                                           | 1,20,000                                    | Enhanced                                                                               |
| 9.        | Future medical<br>expenses                 | - - - -<br>-                                     | 45,000                                      | Awarded                                                                                |
|           | Total                                      | 7,66,385                                         | 9,16,185                                    | Enhanced by<br>Rs.1,49,800/-                                                           |

9. In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation of Rs.7,66,385/- awarded by the Tribunal is hereby enhanced to Rs.9,16,185/- together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit. The third respondent / insurance company is directed to deposit the enhanced award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.7090 of 2017, on the file of the Motor Accidents Claims Tribunal, III Court of Small Causes, Chennai. On such deposit, the appellant/claimant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount, if any, already withdrawn by making necessary applications before the Tribunal. The appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation now determined by this Court. No costs.

Sd/-  
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

kk

To

The Motor Accidents Claims Tribunal,  
III Court of Small Causes, Chennai.



Copy To

The Section Officer,  
VR Section, High Court, Madras.

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+1cc to Mr.Amar Dineshbhai Pandiya, Advocate SR.No.52979

+1cc to Mr.R.Rajesh, Advocate SR.No.53264

C.M.A.No.2613 of 2021

GJ (CO)  
GMY (25/11/2021)