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CMA.No.3704 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2022

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.3704 of 2013

Benzon vaz

... Appellant

Vs.

1.M/s.Parveen Travels (P) Ltd.,
No.115/6, Santha Vellore Village,
Shunguvarchatram,
Sriperumbudur Taluk.
(R1 was set exparte in the trial Court)

2.The New India Assurance Co. Ltd.,
No.45, Moore Street,
Chennai – 600 001.

Respondents

...

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 16.03.2012 made in MACT.O.P.No.2782 of 2010 on the file of the VI Judge, Motor Accidents Claims Tribunal (Small Causes Court), Chennai.

For Appellant : Ms.V.Suguna

For Mr.C.Munusamy

For Respondent-2 : Mr.V.Murali



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JUDGMENT

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned award dated 16.03.2012 in MCO.P.No.2782 of 2010 passed by the Motor Accidents Claims Tribunal (VI Judge, Small Causes Court), Chennai.

2. The case of the claimant/appellant is that on 25.06.2010 at 21.00 hours, while the appellant was riding the motor cycle bearing Regn.No.TN-01-W-4703 along the Pantheon Over Bridge from North to South direction, a bus bearing Regn.No.TN-21-AC-7554 came from the opposite direction in a rash and negligent manner dashed against the appellant and thereby he sustained grievous injuries all over the body. Claiming that the appellant was a business process outsourcer and earning about Rs.30,000/- per month and the rider of the bus is solely responsible for the accident, the appellant/claimant has filed a claim petition claiming a sum of Rs.6,00,000/-.



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3. The Appellant/claimant unsatisfied with the quantum of compensation awarded by the Tribunal under the impugned award, has preferred this appeal seeking for enhancement.

4. The Motor Accidents Claim Tribunal, under the impugned award, has awarded a compensation of Rs.1,92,827/- together with interest and costs to the Appellant/claimant which is detailed hereunder:

<i>Heads</i>	<i>Award Amount (Rs.)</i>
Loss of income for two months at the rate of Rs.4500/- p.m.,	9,000/-
Transportation	5,000/-
Extra Nourishment	1,000/-
Damage to clothes	1,000/-
Medical Expenses	30,827/-
Attender Charges	2,000/-
Pain and sufferings	30,000/-
Disability of 55% at Rs.2000/- per percentage	1,10,000/-
Total	1,92,827/-



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5. The Appellant/claimant has met with an accident on 25.06.2010 and sustained right temporal contusion, left temporal EDH, fracture of shaft of right femur, as a result of an accident caused by a vehicle owned by the first respondent. He preferred a claim before the Motor Accidents Claims Tribunal seeking compensation for the injuries sustained by him. The Motor Accident Claims Tribunal had directed the second respondent to pay the aforesaid compensation to the Appellant/claimant.

6. Before the Tribunal, on the side of the claimant, two witnesses were examined as PW1 and PW2 and nine exhibits were marked as Ex.P1 to Ex.P9. on the side of the second respondent, neither oral evidence let in nor documents were marked. Ex.R1 was marked during recall of PW1.

7. The learned counsel appearing on behalf of the appellant mainly contended that the compensation awarded by the Motor Accident Claims Tribunal is inadequate and not in commensuration with the gravity of the injuries suffered by the claimant. It is contended that the claimant suffered grievous injuries and



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the PW2/Doctor assessed the disability at 55%. The claimant was a Business Process Outsourcer and aged about 34 years at the time of accident and after the accident, he was not in a position to perform his work as he was doing before.

8. The accident occurred on 25.06.2010 at 21.00 hours, at Pantheon Over bridge, Pantheon Salai, Egmore, Chennai. Due to the accident, the claimant sustained grievous injuries. Thereafter, the claim petition was filed and the Tribunal adjudicated the issues with reference to the documents and evidences produced by the respective parties. As far as the negligence is concerned, the driver of the Bus bearing Regn.No.TN-21-AC-7554 had driven the vehicle in a rash and negligent manner and caused the accident.

9. With regard to the quantum of compensation, the Tribunal has awarded a total compensation of Rs.1,92,827/-. In this regard, it is contended that with regard to the pain and suffering, the quantum awarded by the Tribunal is very meagre. This apart, he sustained grievous injuries. Further, loss of income taken in to consideration by the trial court is only for two months at the rate of Rs.4,500/- p.m., which seems to be meagre. Therefore, the compensation granted by the



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Tribunal especially with regard to loss of income is to be enhanced.

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10. The learned counsel appearing on behalf of the second respondent refuted the contention raised by the appellant by stating that the driver of the first respondent is not responsible for the accident. Therefore, the Tribunal has awarded a reasonable compensation and there is no error as such. Thus, the award given by the Tribunal is to be confirmed and the appeal is to be dismissed.

11. This Court is of the considered opinion that the appellant/claimant was aged about 34 years at the time of the accident. The doctor assessed the disability at 70%. However, the Tribunal has reduced the same and has assessed the disability at 55% at Rs.2000/- per percentage after considering the multiple injuries sustained by the appellant. Due to the accident, he was unable to perform his routine duties in a normal manner. She had taken treatment at Apollo Hospital, Chennai, as seen from the Ex.P8/disability certificate. The appellant/claimant being a Business Process Outsourcer, undoubtedly, the injuries would have caused the disability, loss of income and he would be incapacitated to some extent from performing his normal duties. This apart, the accident occurred in the year 2010.



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Thus, fixing a sum of Rs.4500/- for two months in respect of loss of income is inadequate. Therefore, this Court is inclined to enhance the compensation under the head of 'loss of income' by taking three months into consideration and hence, it amounts to a sum of Rs.13,500/-(4500x3). Insofar as the compensation awarded by the Tribunal towards "Extra Nourishment", "damages to clothes" and "Attender charges" are concerned, the same are low in the considered view of this Court. Hence, the compensation awarded under the heads "Extra Nourishment", "damages to clothes" and "Attender charges" are enhanced to Rs.10,000/-, Rs.2000/- and Rs.5000/- respectively.

12. Insofar as the other heads of the compensation are concerned, the assessment of the compensation under the said heads by the Tribunal is a just compensation and it does not call for any interference by this Court.

13. For the forgoing reasons, the compensation awarded by the Tribunal under the impugned award is enhanced from Rs.1,92,827/- to Rs.2,06,327/- in the following manner:



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<i>Heads</i>	<i>Amount awarded by the Tribunal</i>	<i>Award Amount (Rs.)</i>
Loss of income for three months at the rate of Rs.4500/- p.m.,	9000/-	13,500/-
Transportation	5,000/-	5,000/-
Extra Nourishment	5,000/-	10,000/-
Damages to clothes	1,000/-	2,000/-
Medical Expenses	30,827/-	30,827/-
Attender charges	2,000/-	5,000/-
Pain and Sufferings	30,000/-	30,000/-
Disability of 55% at Rs.2000/- per percentage	1,10,000/-	1,10,000/-
Total	1,92,827/-	2,06,327/-

14. Conclusion:

11. In the result, this appeal is allowed. However, the rate of interest fixed by the Tribunal at the rate of 7.5% is confirmed. The second respondent / New India Assurance Company Ltd., is directed to deposit the enhanced amount i.e, Rs.2,06,327/- along with interest, after deducting the amount already deposited, if any, to the credit of MCOP.No.2782 of 2010 within a period of six weeks from the



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date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount along with accrued interest as per the order of this Court to the Appellant/claimant through RTGS within a period of two weeks thereafter. No costs.

20.12.2022

Index : Yes/No
Internet : Yes/No
gv

To

1. The VI Judge,
VMotor Accidents Claims Tribunal
(Small Causes Court), Chennai.
- 2.The Section Officer,
V.R.Section,
High Court, Madras.



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A.A.NAKKIRAN, J.

gv

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