



C.M.A.No.2383 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2022

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THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.2383 of 2014

B.Karthikeyan

... Appellant

..Vs..

1.M.Maya Krishnan

2.United India Insurance Co. Ltd.,
Motor Third Party Cell
No.38, Anna Salai, Chennai-600 002.

... Respondents

Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, as against the judgment and decree dated 01.03.2014 made in MACT O.P No.504 of 2004 on the file of the IV Small Causes Court, (Motor Accidents Claims Tribunal), Chennai.

For Appellant

: Mr.M.Mahendran

For Respondents

: R1- Exparte
R2- No Appearance



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JUDGMENT

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This appeal has been filed by the claimant seeking enhancement of compensation under the impugned award dated 01.03.2014 passed by the Motor Accident Claims Tribunal/ IV Small Causes Court, Chennai, in MACT O.P No.2383 of 2014.

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

3. The Motor Accidents Claim Tribunal, under the impugned award, has awarded a compensation of Rs.1,31,800/- together with interest and costs to the Appellant/claimant which is detailed hereunder:

<i>Heads</i>	<i>Award Amount (Rs.)</i>
Transport to Hospital	3,000/-
Extra Nourishment	5,000/-
Medical Expenses	58,286/-
Attender charges	3,000/-
Pain and suffering	20,000/-



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<i>Heads</i>	<i>Award Amount (Rs.)</i>
Disability of 25% at Rs.1,700/- per percentage	42,500/-
Total	1,31,786/- rounded off to Rs.1,31,800/-

4. The Appellant/claimant has sustained on 25.09.2003 avulsion fracture right pelvic, tenderness and swelling right hypochondrium, hemoperitonium, small liver contusion, multiple abrasion over the right and left leg, left leg laceration over the left medial malleolous bone exposed, periostium stripped, as a result of an accident caused by a vehicle owned by the first respondent and insured with the second 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 respondents to pay the Appellant/claimant, the aforesaid compensation.

5. Before the Tribunal, the Appellant/claimant has filed nine documents which were marked as Ex.P1 to Ex.P9 and examined three witnesses as PW1 to PW3. On the side of the 2nd respondent/Insurance Company, neither any document was filed nor any witness examined before



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the Tribunal. The 1st respondent was set exparte.

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6. The learned counsel for the Appellant submitted that the nature of the injuries sustained by the Appellant/claimant has not been disputed by the 2nd respondent as seen from the evidence available on record. The Appellant/claimant was hospitalized for a period of 21 days at Aditya Hospital as seen from the exhibit P3 discharge summary. The Appellant/claimant was a diploma in Automobile Engineering Student, aged 23 years at the time of the accident. The Doctor who assessed the disability of the Appellant has fixed his disability at 40%. However, the Tribunal has reduced the same and has assessed the disability at 20%. The disability compensation awarded by the Tribunal as seen from the impugned award is Rs.42,500/- calculated at Rs.1,700/- per percentage of disability. Hence, he prays for enhancement of Award amount.

7. Insofar as the assessment of disability by the Tribunal is concerned, the Tribunal has reduced the disability with a reasoning that the claimant himself admitted that the injuries sustained by him is no bony injury. However, considering the nature of the injuries sustained by the



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Appellant/claimant, this Court is inclined to fix the disability of the

Appellant/claimant at 30%.

8. Insofar as the assessment of disability compensation at Rs.1,700/- per percentage is concerned, the same is a correct assessment since the year of the accident is 2003. However, in view of the modification of the disability from 25% to 30% by this Court, the disability compensation is enhanced to Rs.51,000/- by this Court instead of Rs.42,500/- assessed by the Tribunal.

9. 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.

10. For the forgoing reasons, the compensation awarded by the Tribunal under the impugned award is enhanced from Rs.1,31,800/- to Rs.1,40,300/- in the following manner:



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<i>Heads</i>	<i>Amount awarded by the Tribunal</i>	<i>Award Amount (Rs.)</i>
Transport to Hospital	3,000/-	3,000/-
Extra Nourishment	5,000/-	5,000/-
Medical Expenses	58,286/-	58,286/-
Attender charges	3,000/-	3,000/-
Pain and Suffering	20,000/-	20,000/-
Disability at Rs.1700/- per percentage	42,500/- (25%)	51,000/- (30%)
Total	1,31,786/- rounded off to Rs.1,31,800/-	1,40,286/- rounded off to Rs.1,40,300/-

Conclusion:

11. In the result, this appeal is partly allowed. However, the rate of interest fixed by the Tribunal at the rate of 7.5% is confirmed. The second Respondent/Insurance Company is directed to deposit the modified amount i.e, Rs.1,40,300/- along with interest (No interest for the dismissal for default period from 18.06.2008 to 09.01.2014) and costs, after deducting the amount already deposited, if any, to the credit of MACTOP.No.504 of 2004 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit



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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.

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Index:Yes/No

Internet:Yes/No

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A.A.NAKKIRAN, J.
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To

1. The IV Small Causes Court,
(Motor Accidents Claims Tribunal),
Chennai.
2. The Section Officer
V.R.Section, High Court of Madras.

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