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C.M.A.No.1443 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2023

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

C.M.A.No.1443 of 2021

Abdulla

... Appellant

Vs.

1.Jeeva

2.United India Insurance Company Limited,
No.134, Greams Road,
IV Floor, Anna Salai,
Chennai – 600 006.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgement and Decree dated 19.08.2019 made in M.A.C.T.O.P.No.3207 of 2017 on the file of the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai.

For Appellant : Ms.A.Subadra

For Respondents : Exparte [R1]
Mr.D.Bhaskaran [R2]



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JUDGMENT

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The above appeal is filed by the claimant seeking an enhancement of the compensation awarded by the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai in M.C.O.P.No.3207 of 2017.

2. As per the claim petition, on 16.04.2017 at 06.00 p.m., when the claimant was riding his motorcycle bearing Regn.No.TN-05-X-0020 at Pantheon Road, an auto bearing Regn.No.TN-05-AF-2782 belonging to the first respondent and insured with the second respondent/insurance company, driven by its driver in a rash and negligent manner, dashed against the claimant, thereby, he sustained multiple grievous injuries. Therefore, the claimant had filed a claim petition claiming a sum of Rs.35,00,000/- for the injuries sustained by him in the road accident.

3. Before the Tribunal, the claimant had examined himself as P.W.1 and examined the doctor as P.W.2 and marked 12 documents viz., Ex.P.1 to Ex.P.12. No witnessess were examined nor any documents were marked on the side of the respondents. After adjudication, the Tribunal awarded a sum of Rs.1,17,300/- as compensation to the



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claimant. Not satisfied with the same, the claimant has preferred the present appeal seeking enhancement.

4. The learned counsel appearing for the appellant submitted that, though the individual doctor has assessed the disability at 15%, however, the Tribunal had fixed the disability only at 10% and awarded a sum of Rs.30,000/- towards disability by fixing a sum of Rs.3,000/- per percentage of disability, which is wholly unsustainable and the same requires to be re-considered by this Court. Further, the compensation awarded under the other heads are on the lower side and the same requires enhancement. Accordingly, he prays for appropriate enhancement in favour of the appellant.

5. The learned counsel appearing for the second respondent/Insurance Company submitted that, by considering all the materials on records, the Tribunal has awarded compensation in favour of the appellant/claimant under various heads, which are just and reasonable and the same does not require any interference. Accordingly, he prays for dismissal of the appeal.



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6. Heard the learned counsel appearing for the appellant and the learned counsel appearing on behalf of the second respondent and also perused the materials available on record.

7. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The only grievance of the appellant/claimant is with regard to the quantum of compensation awarded by the Tribunal. Though the appellant had sustained multiple grievous injuries, however, he was treated as inpatient in the hospital only for four days, for which, the doctor has assessed the disability at 15% without any materials. In order to prove the disability, the appellant has not produced any documents before the Tribunal, thereby, the Tribunal has assessed the disability at 10% and awarded a sum of Rs.30,000/- towards disability by fixing a sum of Rs.3,000/-. However, at the relevant point of time, the Tribunal ought to have fixed a sum of Rs.5,000/- per percentage of disability. Hence, by accepting the disability fixed by the Tribunal at 10%, this Court is inclined to fix a sum of Rs.5,000/- per percentage of disability. Therefore, the amount awarded



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under the head disability stands enhanced to a sum of Rs.5,000/- (10 x Rs.5,000/- = Rs.50,000/-).

8. Further, the amount of compensation awarded under the heads pain and suffering, extra nourishment and attender charges is enhanced to Rs.50,000/-, Rs.10,000/- and Rs.10,000/- respectively, as this Court is of the considered view that the compensation awarded by the Tribunal under the aforesaid heads are very meagre and deserves enhancement.

9. Insofar as the compensation awarded under the heads future medical expenses and loss of amenities, no compensation can be awarded under such heads as those heads are not conventional heads, which attract any compensation and the claimant has not produced any document relating to the said heads. Therefore, the compensation awarded under the said heads are accordingly set aside.

10. In view of the above, the compensation awarded by the Tribunal is modified as under :-



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<i>S. No.</i>	<i>Description</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
1	Disability	30,000/-	50,000/- (enhanced)
2	Pain and Sufferings	15,000/-	10,000/- (enhanced)
3	Extra nourishment	5,000/-	10,000/-
4	Transport to Hospital	4,000/-	4,000/-
5	Damages to clothes	500/-	500/-
6	Attender charges	800/-	10,000/- (enhanced)
7	Medical expenses	29,469/-	29,469/-
8	Future Medical Expenses	15,000/-	-
9	Loss of income	12,500/-	12,500/-
10	Loss of amenities	5,000/-	-
	Total	1,17,269/-	1,26,469/-
	Rounded off to	1,17,300/-	1,26,500/-

11. Accordingly, the Civil Miscellaneous Appeal is partly allowed and the compensation amount is modified, enhancing from **Rs.1,17,300/-** to **Rs.1,26,500/-**. The second respondent/insurance company is directed to deposit the compensation amount, awarded by this Court above, to the credit of M.A.C.T.O.P.No.3207 of 2017 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less the amount, if any already



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deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellant/claimant through RTGS within a period of two (2) weeks thereafter upon production of proof with regard to payment of Court fee on the enhanced compensation by the appellant/claimant. There shall be no order as to costs in the present appeal.

21.12.2023

Index : Yes / No

Speaking order / Non-speaking order

Netrual Citation Case : Yes / No

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To

1.The Motor Accident Claims Tribunal, II Court of Small Causes,
Chennai.

2.The Section Officer, V.R.Section, High Court, Madras.



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M.DHANDAPANI, J.

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