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CMA No. 1208 / 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Civil Miscellaneous Appeal No. 1208 of 2022
Jaganathan ... Appellant

Versus

1.Rajavel

2.The United India Insurance Co.Ltd.,
146/N, IInd Floor, Kumar complex,
Anna Salai, Tiruchengode – 637 211.

3.The United India Insurance Co.Ltd.,
Divisional Office: 1170, Muthiah Complex,
Mettur Road, Erode – 638 011.

4.Nirmal Kumar

5.Sakthiprakash ... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 59 of 1988 seeking to allow the Civil Miscellaneous Appeal and enhance the award in the order dated 22.03.2021 made in M.C.O.P. No. 568 of 2018, on the file of the Motor Accident Claims Tribunal / Special Subordinate Judge Court, Erode.

For Appellant : Mr. T.S. Arthanareeswaran.

For Respondents : No appearance for R1, R4 & R5.



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Ms. I. Malar for R2 & R3.

J U D G M E N T

The appeal has been filed by the petitioner challenging the quantum of compensation awarded by the Tribunal in M.C.O.P. No. 568 of 2018 dated 22.03.2021.

2.The appellant / petitioner had filed a claim petition stating that on 12.03.2018 at about 11.30 a.m., while the petitioner was travelling as a pillion rider in a two wheeler ridden by the fourth respondent from Sankagiri to Tiruchengode main road, the first respondent drove the Mahendira Jeep bearing Registration No.TN 34 F 3589 from east to west direction in a rash and negligent manner and dashed the two wheeler and as a result of which the petitioner fell down and sustained multiple injuries and thus he is entitled for compensation.

3.The respondents 2 and 3 filed a counter denying all the averments made in the claim petition and stated that in any case, the claim was excessive.

4.The respondents 1, 4 and 5 remained ex-parte before the tribunal.



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Though notice has been served, none has entered appearance on behalf of them.

5.The appellant examined two witnesses on his side and marked Ex.P.1 to Ex.P.14. No witness was examined and no document was marked on the side of the respondents. The disability certificate issued by the Medical Board was marked as Ex.C.1.

6.The Tribunal after considering the evidence and documents filed on the side of the appellants awarded a compensation of Rs.2,12,000/- to the appellant. Aggrieved by the said order, the appellant had preferred the instant appeal.

7.The learned counsel for the appellant submitted that the compensation awarded by the Tribunal is meagre. The accident took place in the year 2018. The appellant was working as a tailor and that since he had not established the income, the Tribunal had fixed the notional monthly income at Rs.6000/- which is very meagre and the same ought to be enhanced. The Tribunal had also fixed a very meagre amount towards attendant charges at Rs.5000/- and had failed to award



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compensation under the head future medical expenses.

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8.The learned counsel for the respondents 2 and 3 per contra submitted that the Tribunal had awarded just compensation and the same need not be interfered with.

9.This Court on perusal of the records finds that the accident is of the year 2018. The notional income fixed by the Tribunal at Rs.6000/- is very meagre as the claimant had shown that he was working as a tailor. Hence, this Court is of the view that the notional income has to be fixed at Rs.10,000/- as the accident is of the year 2018, the cost of living and the wages had substantially increased. Hence, the compensation under the head Loss of earnings is enhanced from Rs.36,000/- to Rs.60,000/- (Rs.10,000/- X 6). It is also seen that the attendant charges fixed by the Tribunal at Rs.5000/- is very meagre and the same is enhanced to Rs.10,000/-. Though the appellant claimed compensation under the head future medical expenses, the appellant has not produced any evidence to substantiate his claim. Hence, this Court is of the view that the Tribunal



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has rightly refused the compensation under the said head since this

Courts finds that there is no evidence to substantiate the same. The compensation awarded by the Tribunal under the other heads are reasonable and justified. Hence, the award under the other heads remains the same. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Earnings	36,000	60,000	Enhanced
2.	Transport to Hospital	6000	6000	Confirmed
3.	Extra Nourishment	7000	7000	Confirmed
4.	Attender Charges	5000	10,000	Enhanced
5.	Damages for Clothes and Articles	3000	3000	Confirmed
6.	Medical Expenses	55,000	55,000	Confirmed
7.	Pain and Sufferings	50,000	50,000	Confirmed
8.	Permanent Disability & Loss of Earning Power	50,000	50,000	Confirmed
	Total	2,12,000	2,41,000	Enhanced by



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Rs.29,000/-

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10. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,12,000/- is hereby enhanced to Rs.2,41,000/- together with interest at 7.5% per annum (excluding the default period, if any) from the date of petition till the date of deposit. The second and third respondents / Insurance Company are 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 six (6) weeks from the date of a receipt of copy of this Judgment. On such deposit the appellant is permitted to withdraw the award amount along with proportionate interest and costs, less the amount if any, already withdrawn. The appellant is directed to pay the necessary Court Fee if any on the enhanced award amount. No costs.

12.07.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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To

The Motor Accident Claims Tribunal /
Special Subordinate Judge Court,
Erode.

SUNDER MOHAN, J

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