



C.M.A.No.1559 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2023

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.1559 of 2018

Bavani Bai

...Appellants

Vs

1.R.Yuvaraj

2.United India Insurance Co.Ltd.,
No.134, Silingi Buildings, 4th Floor,
Greens Road, Chennai 600 006.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award dated 23.11.2017 and made in M.A.C.T.O.P.No.655 of 2014 on the file of the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai.

For Appellant : Mr.F.Terry Chellaraja

For Respondents : R1-set exparte
Mr.S.Arun Kumar for R2



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JUDGMENT

This Civil Miscellaneous Appeal is filed to enhance the award dated 23.11.2017 and made in M.A.C.T.O.P.No.655 of 2014 on the file of the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai.

2. The learned counsel for the appellant would submit that the Tribunal had awarded only a sum of Rs.21,100/- towards the medical bills. He would further submit that the injured was admitted in a private hospital for a period of 57 days and had undergone implantation surgery. The entire medical bills were produced before the Tribunal as Document No.10 and the said document was marked as Ex.P4. A perusal of the said medical bills would show that the medical expenses would come around a sum of Rs.2,00,000/-. Therefore, the Court below, without considering the medical bills in proper perspective had only awarded a sum of Rs.21,100/-.



3. The learned counsel for the second respondent would submit that he had also perused the entire medical bills, which was marked as Ex.P4 and had accepted that those bills available were worth about a sum of Rs.2,00,000/-. Therefore, he requests this Court to pass any order in accordance with law.

4. Heard the learned counsel for the appellant as well as respondent and perused the materials available on record.

5. Considering the submission made by both the learned counsel, this Court is of the considered view that in the present case the medical bills, worth Rs.2,00,000/- were available and the same was marked as Ex.P4, however, the Tribunal had awarded only Rs.21,100/- for medical expenses without considering Ex.P4. Therefore, this Court is inclined to award a sum of Rs.2,00,000/- towards the compensation of medical bills instead of Rs.21,100/- as ordered by the Tribunal.

6. The learned counsel for the appellant would submit that with regard to disability, the Tribunal had awarded only a sum of Rs.16,500/-. However, the



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disability was assessed by the Doctor at 70%. While passing the award, the Tribunal had failed to take the said percentage into consideration and awarded a meagre amount of Rs.16,500/- towards disability and awarded Rs.12,000/- towards loss of income. Hence he would contend that the Tribunal should have applied the multiplier method and awarded compensation.

7. The learned counsel for the second respondent would submit that if this Court is inclined to award the compensation based on multiplier method, this Court may take the functional disability at 15% into consideration and to fix the notional income as Rs.8,000/-.

8. In reply, the learned counsel for the appellant would submit that at least 20% as functional disability and notional income as Rs.9,000/- may be taken into consideration by this Court.

9. In view of the above, this Court feels that it would be appropriate to take the functional disability as 15% and a sum of Rs.8,000/- is fixed as notional income. Since in the present case, the disability is partial and



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permanent in nature, this Court is not inclined to award anything with regard to the future prosperous. Accordingly, the compensation for disability and notional income is fixed by this Court and applied the multiplier method as follows:

$$\text{Rs.}8000 \times 12 \times 14 \times 15\% = \text{Rs.}2,01,600/-$$

10. Accordingly, the award amount towards disability and loss of income is set aside and this Court by applying multiplier method awarded the loss of income as a sum of Rs.2,01,600/-. Accordingly, the award is modified as follows:

<i>S.No.</i>	<i>Heads</i>	<i>Compensation awarded by Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
1	Medical Bills	21,100	2,00,000
2	Disability	16,500	Added with disability
3	Attendance Charges	2,000	2,000
4	Loss of Income	12,000	2,01,600
5	Pain and Suffering	10,000	10,000
6	Transport to Hospital	5,000	5,000
7	Extra Nourishment	5,000	5,000
	Total	71,600	4,23,600



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11. Thus, the compensation awarded by the Tribunal is hereby increased from Rs.71,600/- to Rs.4,23,600/-. In all other aspects, the award of the Tribunal stands confirmed.

12. In the result, this Civil Miscellaneous Appeal is partly allowed and the second respondent/insurance company is directed to deposit a sum of Rs.4,23,600/- along with interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment, to the credit of MCATOP.No.655 of 2014 on the file of the Motor Accident Claims Tribunal, Small Causes Court II, Chennai. The Tribunal is directed to transfer the entire amount to the claimant by way of RTGS, within a period of three weeks from the deposit or from the date of receipt of the Bank details obtained for the claimant or application for withdrawal from the claimant, whichever is earlier. No costs.

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Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
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To:

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



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KRISHNAN RAMASAMY,J.

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