



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1593 of 2021

G.Shankar Babu

.. Appellant/Petitioner

Vs.

**1. Hot Chips Restaurants Pvt. Ltd.,
No.1, First Floor, Srijees Flats,
No.177, Avvai Shanmugam Salai,
Royapettah, Chennai-14.**

**2. The New India Assurance Co. Ltd.,
No.45, First Lane Beach Road,
Moore Street, Chennai-1.**

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to enhance the amount awarded in MCOP.No.5892 of 2014 dated 05.09.2019 on the file of the Motor Accidents Claims Tribunal, Small Causes Court, Special Sub Judge No.1, Chennai.

**For Appellant : Mr.K.Varadha Kamaraj
For Respondents : Mr.Ramesh Babu R2
R1 – No appearance**

J U D G M E N T

This appeal has been filed by the appellant/claimant seeking enhancement of the compensation awarded by the Motor Accidents Claims Tribunal, Small Causes Court, Special Sub Judge No.1, Chennai dated 05.09.2019 in MCOP. No.5892 of 2014.



WEB COPY 2. The brief facts of the case are as hereunder :-

On 29.01.2014 at about 21.00 hours, when the appellant was riding his motor cycle bearing registration No.TN 22 AD 2833 in service road of Rajiv Gandhi Road, Tharamani, at that time, a motor cycle bearing registration No.TN 06 H 4872 came in the opposite direction which was ridden by its rider in a rash and negligent manner, hit against the appellant. As a result, the appellant was sustained injuries. Alleging that the accident was due to negligent driving of the motor cycle, the appellant/claimant has filed a claim Petition before the Motor Accidents Claims Tribunal, Chennai under Section 166 of the Motor Vehicle Act, claiming compensation of Rs.8,00,000/- against the owner of the motor cycle and its insurer and the same was taken on file in MCOP. No.5892 of 2014.

3. Before the Tribunal, during trial, in order to prove the case of the claimant, he himself has examined as a witness (PW1) and marked 10 documents viz., Exs.P1 to P10. On the side of the respondents, two witnesses were examined and seven documents were marked. The Tribunal, after hearing the arguments on either side and after considering the oral and



documentary evidences, has come to the conclusion that the accident occurred only due to negligent driving of the driver of the motor cycle. As the first respondent's motor cycle was insured with the second respondent insurance company, the Tribunal held that the second respondent is liable to compensate the claimant. After considering the oral and documentary evidence, the Tribunal has awarded a sum of Rs.1,0,500/- as compensation to the claimant with interest at the rate of 7.5% per annum from the date of petition till the date of realization.

4. Aggrieved by the said award, the appellant/claimant has filed this appeal before this Court for enhancement of the compensation.

5. The learned Counsel for the appellant submitted that admittedly, at the relevant point of time, the Doctor, who treated the appellant, has assessed the disability at 20% and the Tribunal has awarded only Rs.3,000/- per percentage towards disability, which is very meager. The appellant has suffered grievous injuries and the Doctor has wrongly assessed the disability, which warrants interference. Further, the other heads awarded by the Tribunal is also meager and he prays for enhancement of the compensation.



WEB COPY 6. The learned counsel for the second respondent Insurance Company submitted that the award amount passed by the Tribunal is highly excessive. Hence, the learned counsel prayed to dismiss the order of the Tribunal.

7. Heard the learned counsel for the appellant/claimant as well as the learned counsel for the respondent Insurance Company and also perused the materials available on record.

8. On perusal of the impugned order, it is seen that the claimant has suffered 20% as partial permanent disability and he was taken treatment for 16 days as in-patient. The accident has happened in the year 2014 and considering the injuries sustained by the appellant, this Court is inclined to increase the amount at Rs.4,000/- per percentage. The Tribunal has awarded Rs.15,000/- for pain and suffering, which is sustained and this Court is inclined to enhance the same to Rs.50,000/-, which the appellant is entitled for. Further, the amount of Rs.4,000/- and Rs.5000/- towards transportation and attender charges, which was awarded by the Tribunal, are very meager and this Court enhances the same to Rs.10,000/- and Rs.10,000/- respectively.



The other heads awarded by the Tribunal are just and reasonable.

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9. The amount of compensation is modified as follows:

Sl.No.	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
1	Loss of disability	60,000	80,000 (20% x Rs.4000)
2	Pain and sufferings	25,000	50,000
3	Tranportation	5,000	10,000
4	Medical Expenses	5,500	5,500
5	Extra Nourishment	15,000	15,000
6	Attender Charges	4,000	10,000
7	Loss of earnings	16,000	16,000
8	Loss of future prospectus	20,000	20,000
	Total	1,50,500	2,06,500

10. With the above modification, the appeal is allowed and the compensation awarded by the Tribunal at Rs.1,50,500/- is hereby enhanced to **Rs.2,06,500/-**, with interest at the rate of 7.5% per annum from the date of petition till the date of realization. The second respondent is directed to deposit the enhanced amount with interest, less the amount already deposited,



if any, within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the award amount with interest, by filing necessary applications before the Tribunal. No costs.

22.12.2023

Index : Yes / No
Speaking Order : Yes/ No

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To

The Judge,

Motor Accidents Claims Tribunal, Small Causes Court,
Special Sub Judge No.1, Chennai.



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M.DHANDAPANI.,J.

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