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C.M.A.No.1726 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2023

CORAM :

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

C.M.A.No.1726 of 2018

P.Muniappan

... Appellant

Vs.

1. J.Chinnasamy
2. United India Insurance Company Ltd.,
Dharmapuri Branch,
Office No.22B,
P.R.Sundaram Iyer Street,
Dharmapuri Town 636 701.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 22.09.2017 made in M.C.O.P.No.436 of 2016 on the file of the Motor Accidents Claims Tribunal and the Court of the Chief Judicial Magistrate at Dharmapuri.

For Appellant : Ms.V.Suguna
for M/S.R.Arun Dattan

For R1 : Ex-parte

For R2 : Ms.I.Malar



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JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant/claimant, challenging the quantum of compensation awarded by the Tribunal in M.C.O.P.No.436 of 2016, dated 22.09.2017.

2. The case of the appellant/claimant is that, on 13.08.2015 at about 9.15 a.m., while the claimant was riding his motor cycle viz., Hero Honda Splender bearing Reg.No.TN 29 AB 7983, he was hit by a Mahindra pickup van bearing Reg.No.TN 29 AL 4282, which was driven by its driver in a rash and negligent manner. Due to the impact of the said accident, the appellant/claimant sustained grievous injuries all over his body. Hence, the appellant made a Claim Petition before the Tribunal, seeking a sum of Rs.20,00,000/- as compensation.

3. On consideration of oral and documentary evidence, the Tribunal has awarded a sum of Rs.4,06,465/- towards compensation to the appellant. Being not satisfied with the same, the appellant/claimant has filed the present appeal.

4. The learned counsel appearing for the appellant submitted



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that, at the time of accident, the appellant is running a lorry body built workshop and earned a sum of Rs.30,000/- per month. Due to the injuries sustained by the claimant, the claimant is unable to perform his work well, as he did before. The learned counsel contented that the Doctor assessed the injured and fixed disability at 35%, the Tribunal has taken the entire percentage of disability as assessed by the Doctor and fixed a sum of Rs.3,000/- per percentage and arrived at Rs.1,05,000/- towards disability, which is on the lower side and the same needs to be modified by this Court. Further, he submitted that the Tribunal has not awarded any amount towards “loss of income during treatment period”. Accordingly, he prays for appropriate enhancement in favour of the appellant.

5. The learned counsel appearing for the second respondent/Insurance Company would submit that, the amount awarded by the Tribunal under all heads are just and reasonable, which does not requires any interference of this Court.

6. Heard the learned counsel appearing for the



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appellant/claimant and the learned counsel appearing on behalf of the second respondent/Insurance company and 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. In the present case, the Doctor assessed the disability of the injured at 35% and awarded a sum of Rs.1,05,000/- towards disability, which appears to be low. Taking into consideration on the submission made by the learned counsel for the appellant and on considering the nature of injuries sustained by the claimant, this Court feels that it would be appropriate to fix a sum of Rs.4,000/- per percentage, which would be just and reasonable and thus the amount towards “disability” is modified and enhanced to a sum of Rs.1,40,000/-. Further, this Court finds that the Tribunal has not awarded any amount towards “loss of income during treatment period”, hence, this Court is inclined to award a sum of Rs.20,000/- towards the said head.



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8. Insofar as the compensation awarded by the Tribunal under other heads are concerned, this Court finds that the same are just and proper and are hereby confirmed.

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

<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	1,05,000/-	1,40,000/- (enhanced)
2	Pain and suffering	25,000/-	25,000/-
3	Medical expenses	1,77,465/-	1,77,465/-
4	Transportation	59,000/-	59,000/-
5	Extra nourishments	20,000/-	20,000/-
6	Mental agony	20,000/-	20,000/-
7	Loss of income during treatment period	-	20,000/- (awarded)
	Total	4,06,465/-	4,61,465/-

10. Accordingly, this appeal is partly allowed and the compensation amount by the Tribunal is enhanced from **Rs.4,06,465/-** to **Rs.4,61,465/-** and the second respondent/Insurance Company is directed to deposit the compensation amount, awarded by this Court above, to the



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credit of M.C.O.P.No.436 of 2016 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 deposited, within a period of six weeks (6) 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 weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced compensation. The appellant is directed to pay necessary additional Court fee on the enhanced compensation amount. There shall be no order as to costs in the present appeal.

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Index : Yes / No
Speaking order / Non-speaking order
Netrual Citation Case : Yes / No
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To

1. The Motor Accident Claims Tribunal,
Court of Chief Judicial Magistrate, Dharmapuri.



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

M.DHANDAPANI, J.
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