



C.M.A.No.1545 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2023

CORAM :

THE HONOURABLE **MR.JUSTICE SUNDER MOHAN**

C.M.A.No.1545 of 2023

R.Ramesh Babu @ Ramesh

...Appellant/Petitioner

Vs.

1.Govindarajulu,

2.United India Insurance Co.Ltd.,

Motor third Party Claims,

No.134, Greams Road,

Silingi Building, 4th Floor,

Chennai – 600 006.

...Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 20.07.2022 and made in M.A.C.T.O.P.No.4449 of 2015 on the file of the Motor Accidents Claims Tribunal, (Special Sub Court No.2, Motor Accidents Claims Petition, Small Causes Court, Chennai).



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For Appellant : Mr.F.Terry Chella Raja

For Respondents : R1 - Exparte
Mrs.V.Puspha for R2

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant challenging the quantum of compensation granted by the Tribunal in the award dated 20.07.2022 and made in M.A.C.T.O.P.No.4449 of 2015, on the file of the Motor Accident Claims Tribunal (Special Sub Court No.2, Motor Accident Claims Petitions, Small Causes Court, Chennai.

2. The appellant filed M.A.C.T.O.P.No.4449 of 2015 on the file of the Motor Accident Claims Tribunal (Special Sub Court No.2, Motor Accident Claims Petitions, Small Causes Court Chennai) claiming a sum of Rs.14,00,000/- as compensation for the injuries sustained by him in the accident that took place on 16.03.2015.



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3. The appellant filed a claim petition stating that on 16.03.2015, at about 08.00 hours, while he was riding an unregistered Honda motorcycle on Tripathi to Puttur main road, a Tata Goods Carriage vehicle bearing Registration No.TN - 05 - AU -0225, driven by its driver belonging to the first respondent herein in a rash and negligent manner, hit the motorcycle from behind and caused the accident. In the accident, the appellant sustained grievous injuries. Thus, the appellant filed claim petition claiming compensation against the respondents.

4. The first respondent remained exparte before the Tribunal.

5.The second respondent/Insurance Company resisted the claim petition stating that the accident did not take place due to the negligent driving of the driver of the insured vehicle; that the claim made by the appellant in any case is excessive and prayed for dismissal of the claim petition.



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6. Before the Tribunal, the appellant examined himself as P.W.1 and marked thirteen documents as Exs.P.1 to P.13. The respondent examined three witnesses as R.W.1 to R.W.3 and marked three documents as Exs.R.1 to R3. The Disability Certificate issued by the Medical Board was marked as Ex.C.1.

7. The Tribunal after considering the oral and documentary evidence, held that the accident occurred due to rash and negligent driving of the driver of the offending vehicle belonging to the first respondent and directed the second respondent being the insurer to pay a sum of Rs.5,50,300/- as compensation to the appellant.

8. Aggrieved by the said order, the appellant has preferred the present appeal seeking enhancement of compensation.

9. The learned counsel for the appellant submitted that though the appellant had established that he had suffered 98% permanent disability on



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account of “Bilateral Hearing Loss”, the Tribunal had erroneously awarded compensation only by adopting Percentage Method; that the Tribunal ought to have awarded compensation by adopting the Multiplier Method. The learned counsel therefore, prayed for enhancement of compensation.

10. The learned counsel for the appellant filed a petition to dispense with notice to the first respondent since he remained *exparte* before the Tribunal. Hence, notice to the first respondent is dispensed with.

11. The learned counsel for the second respondent, *per contra*, submitted that though the Medical Board assessed the disability as 98%, the appellant had not established functional disability; that the appellant was examined himself as P.W.1 and he admitted in the cross examination that he could hear and answer the questions put to him; that in the light of that admission, it cannot be said that the appellant had suffered any functional disability, therefore, the Tribunal was right in awarding compensation under the head Disability by adopting Percentage Method and prayed for dismissal of the appeal.



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

13. The only question involved in the instant appeal is whether the compensation awarded by the Tribunal is just and reasonable?

14. It is seen from the Discharge Summary that the appellant had suffered the following injuries:

“Poly Trauma with Head Injury, Left Multiple RIB Fractures with Hemothorax, Fracture left Clavicle/Left Scapula, Left Ankle Bimolecular Fracture”.

15. The appellant had taken treatment as inpatient from 16.03.2015 to 28.03.2015 in Sri Venkateswara Institute of Medical Science. The appellant was examined by the Medical Board which assessed the disability as 98% due to “Bilateral Hearing Loss”. It is also seen in the cross-examination that the appellant could hear the questions and respond to the same. Therefore, in the



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light of the evidence, it cannot be said that the appellant suffered 100% functional disability. The appellant had also stated that he was a Supervisor in a private concern. However, the nature of injuries would show that the appellant would have certainly suffered functional disability. Considering the above nature of injuries, the disability certificate issued by the Medical Board and the evidence of the appellant, this Court is of the view that it would be just and reasonable to fix the appellant's functional disability at 25%. Considering the year of the accident, age and avocation of the appellant, this Court is of the view that it would be just and reasonable to fix a sum of Rs.12,000/- per month as notional income. Since the appellant was aged 42 years at the time of accident, he is entitled to 25% enhancement towards future prospects. The multiplier applicable is '14'. Thus, the award under the head Disability is modified as follows:

Rs.12,000/- + (25% X Rs. 12000/-) X 12 X 14 X 25/100 = Rs.6,30,000/-

16. The compensation awarded by the Tribunal under other heads is just and reasonable and hence, the same are confirmed. Thus, the



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compensation awarded by the Tribunal is enhanced from Rs.5,50,300/- to

Rs.7,88,300/- break-up follows:-

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability	3,92,000/-	6,30,000/-	Enhanced
2.	Pain and Sufferings	30,000/-	30,000/-	Confirmed
3.	Transportation	4,000/-	4,000/-	Confirmed
4.	Medical Expenses	91,647/-	91,647/-	Confirmed
5.	Extra Nourishment	10,000/-	10,000/-	Confirmed
6.	Attender Charges	3,600/-	3,600/-	Confirmed
7.	Loss of Earnings	19,000/-	19,000/-	Confirmed
	Total	5,50,247/- rounded of to Rs.5,50,300	7,88,247/- rounded of to Rs.7,88,300	Enhanced by Rs.2,38,000/-

17. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.5,50,300/- is hereby enhanced to Rs.7,88,300/- together with interest at 7.5% per annum (excluding the default period if any) from the date of



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petition till the date of deposit. The second respondent/Insurance Company is directed to deposit the 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 receipt of a copy of this Judgment. On such deposit, the appellant is permitted to withdraw the award amount along with 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.

31.08.2023

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Index: Yes/No

Neutral Citation: Yes / No



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Copy to:-

1. The Special Sub Court No.2,
Motor Accidents Claims Tribunal,
Small Causes Court,
Chennai.
2. The Section Officer,
VR Section,
High Court of Madras,
Chennai.



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SUNDER MOHAN, J.

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