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C.M.A.No.3839 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2023

CORAM:

THE HON'BLE Mr.JUSTICE A.A.NAKKIRAN

CMA. No.3839 of 2019

Mani Bharathi

... Appellant

..VS..

1.C.Periyasamy (deceased by L.Rs)

2.The Oriental Insurance Co. Ltd.,
Motor Third Party Hub,
No.115, Broadway, Chennai -108.

3.P.Kalyani

.... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 24.09.2018 made in MCOP.No.4982 of 2014 on the file of the Motor Accident Claims Tribunal, (IV Small Causes Court) Chennai.

For Appellant	: Mr.Nalliyappan
For Respondents	: R1 - Died
	Mr.J.Chandran for R2
	Not ready in notice - R3



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J U D G M E N T

Aggrieved over the quantum of compensation arrived at by the Tribunal at Rs.3,26,100/- along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit, the claimant / appellant is before this Court. Since challenge to the appeal is only on quantum, this Court deals only with the quantum arrived at by the Tribunal, confirming the negligence aspect.

2. It is the case of the claimant/appellant that on 29.07.2014 at 09..00 hours, while the claimant was riding his two wheeler bearing Regn.No.TN-22-AV-3934 at Medavakkam main road, near Ullagaram Indian Oil Petrol Bank, from South to North direction, a car bearing Regn.No.TN-22-BC-9591, came from North to South direction in a rash and negligent manner and dashed against the claimant, due to which, the claimant / appellant sustained grievous injuries. Claiming that the driver of the car has caused the accident, the second respondent is liable to pay



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compensation, claim petition came to be filed claiming a sum of Rs.10,00,000/- as compensation before the Tribunal.

3. The learned counsel for the appellant would submit that the Tribunal failed to appreciate that due to the accident caused by the first respondent's vehicle, the appellant herein sustained “SAH(Sub-Arachnoid Hemorrhage), Hematoma -Rt side of the forehead”, due to which, the appellant used to suffer with head ache, giddiness, memory deficit and hence it is difficult to work, walk faster, minimal hearing of right and left ear, not able to continue her regular work, hence the court below ought to have adopt multiplier method to award on the head of disability on considering the nature of injuries. It ought to have appreciate that PW2/Doctor who assessed the disability of the appellant as 30% and issued Ex.P16/Disability Certificate. Hence, the court below ought to have adopt multiplier method to award compensation on the head of disability on considering the head injury suffered by the appellant. It failed to award reasonable amount on the head of pain and suffering,



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transportation, attender charges, loss of earnings. It ought to award some amount on the head of future medical expenses, since the appellant regularly taking treatment for the injuries suffered by him. It failed to award just and reasonable compensation without considering the age and the injuries sustained by the appellant. He further submitted that the Tribunal ought to have appreciate that the PW2/Doctor has assessed the disability of the appellant as 30% and issued Disability Certificate. However the Tribunal adopted only 15% as disability which is not sustainable under law. Hence, he prays for the enhancement of the appeal.

4. On the contrary, the learned counsel for the second respondent/Insurance Company has submitted that after considering the entire oral and documentary evidence, the Tribunal has awarded a fair and reasonable compensation. Hence, this case do no warrant any interference of this Court.



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5. Heard, the learned counsel for the appellant and the learned counsel for the second respondent. Perused the materials available on record.

6. The Tribunal, based on the oral and documentary evidences, has awarded a sum of Rs.3,26,100/- as total compensation payable by the second respondent to the claimant under the following heads:

Heads	Award Amount (Rs.)
Transport and Nourishment	10,000/-
Attender Charges	3,500/-
Medical Expenses	1,20,119/-
Disability	45,000/-
Loss of Earning	67,500/-
Damages for pain and suffering and trauma	50000/-
Loss of Amenities	30,000
Total	Rs.3,26,119/-



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7. Considering the nature of the injuries sustained by the Appellant/claimant, this Court is inclined to fix the percentage of disability at 30% and Rs.4000/- for each percentage of disability since the year of the accident is 2014. However, in view of the modification of Rs.3000/- to Rs.4000/- for each percentage by this Court, the disability compensation is enhanced to Rs.1,20,000/- by this Court instead of Rs.45,000/- as assessed by the Tribunal.

8. Considering the nature of injuries sustained by the appellant and treatment given in the private hospital for 7 days, the claimant would have been taken care of by any other person for all those days and hence this court is inclined to enhance the sum to Rs.6000/- instead of Rs.3500/- as assessed by the Tribunal.

9. Insofar as the other heads such as Transport, medical expenses, loss of earning, pain and suffering and loss of amenities are concerned,



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which in the opinion of this Court, is based on evidence and records, the said sum awarded under these heads are confirmed as such. Thus, the break-up details of the modified compensation are as follows:

Heads	Award Amount (Rs.)
Transport and Nourishment	10,000/-
Attender Charges	6,000/-
Medical Expenses	1,20,119/-
Disability	1,20,000/-
Loss of Earning	67,500/-
Damages for pain and suffering and trauma	50,000/-
Loss of Amenities	30,000
Total	Rs.4,03,619/-

10. In the result, the Civil Miscellaneous Appeal filed by the claimant/appellant is partly allowed by enhancing the total compensation from Rs.3,26,100/- to **Rs.4,03,600** /-, which is payable with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. It is made clear that for the enhanced amount of Rs.77,500/-,



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the interest rate of 7.5% shall be calculated from the date of filing of this appeal. Since the compensation amount now awarded is **4,03,600/-**, it is made clear that the claimant has to pay the appropriate Court fee in order to receive the enhanced award amount.

11. The second respondent/Insurance Company shall deposit the enhanced compensation amount, as awarded by this Court, less the amount already deposited if any, within a period of six weeks 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 along with accrued interest as per the order of this Court to the appellant/claimant through RTGS within a period of two weeks thereafter. No costs.

Index : yes/No
Internet: Yes/No
gv

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To

1. The Motor Accident Claims Tribunal,
IV Small Causes Court) Chennai.

2. The Section Officer,
V.R.Section,
Madras High Court,
Chennai-104.



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A.A.NAKKIRAN., J.

gv

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