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C.M.A. No.3237 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.06.2023

CORAM

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

C.M.A. No.3237 of 2019

Lakkumanan
S/o Chinnasamy

...Appellant

Versus

1. S.Kanagasabai
2. Universal Sambo Insurance Co. Ltd.,
Flat No.EL-94, T.T.C.Indoor Area,
M.I.D.C.Mahape, Navi,
Mumbai 400 710.

...Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the decree and judgment dated 12.11.2018 made in MCOP.No.7577 of 2015 on the file of Motor Accident Claims Tribunal (Small Causes Court, Special Sub Court No.I), Chennai.

For appellant : Mr.K.Varadha Kamaraj

For respondents
for R2 : Mrs.R.Shree Vidhya



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JUDGMENT

WEB COPY This appeal has been filed by the claimant seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal (Small Causes Court, Special Sub Court No.I), Chennai in MCOP.No.7577 of 2015, dated 12.11.2018.

2. It is the case of the appellant/claimant that on 18.08.2015 at about 13.40 hours, when he was riding a motorcycle bearing Registration No.TN-32-Q-3399 near Anna Nagar West Depot at Thirumangalam, Chennai, an Auto Rickshaw bearing Registration No.TN-01-AM-2064 came in a rash and negligent manner and dashed against his motorcycle. As a result of the accident, the appellant sustained grievous injuries. The respondents, who are the owner and insurer of the Auto rickshaw are liable to pay compensation to him.

3. The appellant was working as owner-cum-driver of a Tata Magic Auto and earning Rs.700/- per day at the time of accident. After the accident, he is not able to continue his regular work, hence, he made a claim of Rs.20,00,000/- as compensation.

4. The said claim was resisted by the Insurance Company by filing a

<https://www.mhc.tn.gov.in> detailed counter denying the manner of accident as projected by the appellant.



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They also denied the age, occupation and income of the claimant. Thus, they sought for dismissal of the claim petition.

5. In order to prove the claim on the side of the appellant, he examined himself as PW1 and marked 6 documents as Exs.P1 to P6. On the side of the respondents, no one was examined and no exhibit was marked.

6. The Tribunal after analysing the entire evidence came to the conclusion that the accident had occurred due to the rash and negligent driving of the driver of the Auto Rickshaw and awarded a compensation of Rs.1,31,750/- to the appellant along with interest at the rate of 7.5% per annum. The break-up details of the amount awarded by the Tribunal under various heads are as follows:

<i>S.No.</i>	<i>Heads under which amount is awarded by the Tribunal</i>	<i>Amount in Rs.</i>
1.	Disability	60,000
2.	Pain and Sufferings	20,000
3.	Transportation	5,000
4.	Extra Nourishment	10,000
5.	Attender Charges	2,750
6.	Loss of Earnings	14,000
7.	Loss of future prospects	20,000
	Total Compensation	1,31,750



WEB COPY 7. It is the submission of the learned counsel for the appellant/claimant that the amount awarded towards per percentage of injury is very meagre and the same has to be increased as the accident had occurred during the year 2015. Further, the appellant was not able to attend any work for four months, hence, Loss of Earnings should be calculated for fourth months.

8. On the other hand, the learned counsel appearing for the Insurance Company submitted that the amount awarded by the Tribunal is just, which needs no interference of this Court.

9. Considering the submissions of the learned counsels appearing for both sides and after perusal of the materials available on record, this Court is of the opinion that the amount awarded by the Tribunal has to be modified. Accordingly, this Court awards Rs.4,000/- towards per percentage of injuries sustained by the appellant. Hence, the appellant is entitled to Rs.80,000/- towards Disability [4,000 x 20]. As the appellant had not attended any work for four months, Loss of Earnings is enhanced to Rs.28,000/- [7,000 x 4].

10. Further, the appellant has not suffered any permanent injuries, hence, the amount awarded towards Future Prospects is set aside and the sum of Rs.20,000/- awarded towards Pain and Sufferings is also reduced to



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Rs.10,000/-. However, he is not able to do his work as before the accident, hence, a sum of Rs.10,000/- is awarded towards Loss of Amenities.

11. The amount of Rs.5,000/- and Rs.2,750/- awarded towards Transportation and Attender Charges are very meagre and hence, the same are enhanced to Rs.10,000/- each. The amount awarded towards Extra Nourishment is just and fair and hence, the same is confirmed.

12. In total, the appellant is entitled to **Rs.1,58,000/-** along with interest at the rate of 7.5% per annum from the date of claim petition till the date of realization. Thus, the total compensation payable to the appellant is re-calculated and tabulated below:

<i>S.No</i>	<i>Heads under which amount is awarded by the Tribunal</i>	<i>Amount awarded by the Tribunal in Rs.</i>	<i>Amount awarded by this Court in Rs.</i>
1.	Disability	60,000	80,000
2.	Pain and Sufferings	20,000	10,000
3.	Transportation	5,000	10,000
4.	Extra Nourishment	10,000	10,000
5.	Attender Charges	2,750	10,000
6.	Loss of Earnings	14,000	28,000
7.	Loss of Future Prospects	20,000	-
8.	Loss of Amenities	-	10,000
	Total Compensation	1,31,750	1,58,000



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WEB COPY 13. In view of the above modifications, the Civil Miscellaneous Appeal is partly allowed. The second respondent/Insurance Company is directed to deposit the modified award amount of Rs.1,58,000/- with accrued 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 order. On such deposit, the appellant/claimant is permitted to withdraw the modified award amount, less the amount already withdrawn, if any, together with proportionate interest and costs. The appellant shall pay necessary Court fee, if any on the enhanced compensation. No costs. Consequently, connected Miscellaneous Petition is closed.

02.06.2023

Speaking Order : Yes / No
Index : Yes / No
pvs

To

1. The Small Causes Court, Special Sub Court No.I,
The Motor Accident Claims Tribunal, Chennai.
2. The Section Officer,
V.R.Section, High Court, Madras.



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A.A.NAKKIRAN, J.

pvs

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