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C.M.A.No.1320 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A.No.1320 of 2023

V.Baskaran

... Appellant

Vs.

1.N.Paramasivan

2.Reliance General Insurance Co.Ltd.

Reliance House, R.O.Legal Department

6th Floor, No.6,Haddows Road

Nungambakkam

Chennai-600006.

... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 07.02.2023 made in MCOP No.5250 of 2014 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.

For Appellants : Mr.K.Varadha Kamaraj

For Respondents : Mr.P.Suresh Srinivasan (R2)

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant challenging the quantum awarded by the Tribunal vide order dated 07.02.2023 made in MCOP No.5250 of 2014 on the file of the Motor



Accident Claims Tribunal, IV Court of Small Causes, Chennai for the accident suffered by him.

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2. According to the appellant, on 17.07.2014 at about 13.30 hours, while he was riding the motorcycle bearing Regn.No.TN10 J 2408 in GST Road Guduvanchery, near Fish Market Junction, a two wheeler bearing registration No TN-19-F-9816, driven in a very rash and negligent manner endangering public safety, hit behind him and caused the accident, wherein he sustained grievous injuries. Hence, the appellant filed claim petition claiming compensation against the respondents.

3. The first respondent remained exparte before the Tribunal.

4. The second respondent / Insurance Company filed counter statement denying all the averments made by the appellant in the claim petition; and stated that the accident occurred only due to the negligent act of the appellant, who drove the vehicle in a rash and negligent manner, lost his control and invited the accident; that hence, the second respondent is not liable to pay compensation and that in any event, the compensation claimed



by the appellant was excessive and prayed for dismissal of the claim petition.

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5. The appellant examined himself as PW1, and one Dr.K.J.Mathiazhagan as P.W.2 and marked Ex.P1 to P18. On the side of the second respondent, Mr.Manikandan, Legal Sup-potting Officer, Insurance Company was examined as R.W.1 and Ex.R-1 to R5 were marked. The Disability Certificate issued by Regional Medical Board was marked as Ex.C1.

6. The Tribunal after considering the evidence and documents filed held that the accident occurred due to the rash and negligent riding by the rider of the motor cycle belonging to the first respondent and directed the second respondent to pay a sum of Rs.6,70,703/- as compensation. Aggrieved by the said award, the appellant has preferred the present appeal seeking enhancement of compensation.

7. The learned counsel for the appellant submitted that the award of compensation is meagre. Though the Tribunal found that the appellant had



taken treatment from September 2014 to May 2015 and was admitted in the hospital on five occasions, the Tribunal awarded only a meagre sum of Rs.19,000/- under the head Loss of Income. The learned counsel further submitted that the award of compensation under the other heads are also not reasonable. As regards the compensation under the head Loss of Amenities, the Tribunal during the discussion, thought it appropriate to award Rs.50,000/-. However, in the calculation, only Rs.30,000/- was taken into account. For the above reasons, the learned counsel prayed for enhancement of compensation.

8. Per contra, the learned counsel for the second respondent / Insurance Company submitted that the award of Tribunal is just and proper and, therefore, no interference is required and prayed for dismissal of the appeal.

9. Heard the learned counsel appearing for the appellant as well as second respondent / Insurance Company and perused the materials available on record.

10. The only question involved in the present appeal is whether the compensation awarded by the Tribunal is just and reasonable.



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11. Admittedly, the appellant took treatment as in-patient in five spells for a total period of 33 days, which was from September 2014 to May 2015. Considering the period of treatment and the nature of injuries, this Court is of the view that loss of income during the treatment period has to be assessed for six months. Considering the avocation and age of the appellant, it would be just and reasonable to fix the notional income as Rs.10,000/- per month. Thus, the appellant is entitled to compensation of Rs.60,000/- under the head Loss of Income.

12. The appellant is also entitled to enhancement under the other Heads. The compensation awarded by the Tribunal towards Transportation expenses, Nutrition expenses and Attendant charges are meagre and, hence the same are enhanced to Rs.15,000/- each. The Tribunal had found that the appellant was entitled to Rs.50,000/- towards Loss of Amenities and hence the same is awarded under the said head, although in the calculation, the Tribunal had erroneously stated as Rs.30,000/-. The compensation awarded by the Tribunal under other heads are just and reasonable and hence the same are confirmed. Thus, the compensation awarded by the Tribunal is enhanced



from Rs.6,70,703/- to Rs.7,48,668/-, break-up as follows -

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability	1,32,000/-	1,32,000/-	Confirmed
2.	Medical Expenses	4,35,668/-	4,35,668/-	Confirmed
3.	Loss of Income	19,000/-	60,000/-	Enhanced
4.	Pain and Suffering	25,000/-	25,000/-	Confirmed
5.	Transportation Expenses	8,135/-	15,000/-	Enhanced
6.	Nutrition Expenses	10,000/-	15,000/-	Enhanced
7.	Damages to Clothes	1,000/-	1,000/-	Confirmed
8.	Attender Charges	9,900/-	15,000/-	Enhanced
9.	Loss of Amenities	30,000/-	50,000/-	Enhanced
	Total	6,70,703/-	7,48,668/-	Enhanced by 77,965/-

13. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.6,70,703/- is hereby enhanced to Rs.7,48,668/- together with interest at 7.5% per annum (excluding the default period, if any) from the date of petition till the date of deposit. The 2nd 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 a receipt of copy of this Judgment.

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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.

11.08.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

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

2. The Section Officer,
VR Section,
High Court,
Madras.



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SUNDER MOHAN, J.

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