



C.M.A.No.3668 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2023

CORAM:

THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

C.M.A.No.3668 of 2019

T.Vinoth Kumar

... Appellant

vs.

1. D.Murugan

2. IFFCO TOKIO General Insurance Co. Ltd.,
KSCMF Building, 3rd Floor, 3rd Block,
No.8, Cunningham Road,
Bangalore

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree, dated 22.10.2016 passed in M.C.O.P.No.1322 of 2013, on the file of the Motor Accident Claims Tribunal/IV Court of Small Causes, Chennai, for enhancement.

For Appellant : Mr.Amar D.Pandiya

For Respondents : Mr.J.Michael Visuvasam for R2

R1-Notice Dispensed With vide Court
order dated 13.02.2023



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JUDGMENT

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This Civil Miscellaneous Appeal is filed by the appellant/claimant against the Judgment and decree passed in M.C.O.P.No.1322 of 2013 dated 22.10.2016 by the Motor Accident Claims Tribunal/IV Court of Small Causes, Chennai, for enhancement of compensation.

2. The claim petition was filed under Section 166 of Motor Vehicle Act and Rule 3 of M.A.C.T. Rules claiming compensation of Rs.6 lakhs for the injuries sustained by appellant/claimant herein in the road accident that occurred on 06.02.2013.

3. The Tribunal, after hearing both side arguments and upon considering the oral and documentary evidence put forth, has granted compensation of Rs.2,33,500/- with interest at 7.5% per annum (except for Rs.2,500/- awarded towards future medical expenses) from the date of numbering of the petition i.e. 05.03.2013 till the date of realization.

4. The learned counsel appearing for the appellant/claimant would strenuously argue that the amount granted for extra nourishment, transport to hospital, loss of amenities and loss of education are very meagre and prayed for enhancement of the same.



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5. Per contra, the learned counsel appearing for the 2nd respondent/ Insurance Company would vehemently argue that the above said arguments are untenable as the amount awarded under the aforesaid heads are sufficient and that the award passed by the Tribunal needs no interference and he would pray for dismissal of the appeal.

6. Heard the rival submissions put forth by the learned counsel of both sides and perused the entire material records.

7. As regards the manner of accident, it is the evidence of P.W.1/the appellant/claimant herein that on 06.02.2013 at about 13.30 hours, while the appellant was riding a motorcycle bearing Regn. No.TN-18-X-7778 along 100 Feet Road, Opposite to Indian Oil Petrol Bunk at Thirumangalam, Chennai, proceeding towards North, at that time, a share auto rickshaw bearing Regn. No.TN-07-AA-0246 which was proceeding from West to East, came in a rash and negligent manner at a great speed, came in a wrong side of the road and dashed against the appellant's motorcycle. Due to the impact, he suffered fracture on left tibia, which is not in dispute.



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8. It could be seen from treatment records-Ex.P3 that the appellant/claimant was given treatment as inpatient in a private hospital at Kolathur, Chennai from 06.02.2013 to 09.02.2013. The date of accident is 06.02.2013. At the time of accident, the appellant/claimant was pursuing B.E. final year.

9. Considering, the above said details, for extra nourishment, transport to hospital and for attender charges, **Rs.4,000/- under each head (in total Rs.12,000/-)** is granted in addition to the amount already granted by the Tribunal. For Loss of amenities, **Rs.12,000/-** is granted in addition to the amount already granted by the Tribunal. For loss of education, **Rs.10,000/-** is granted in addition to the amount already granted by the Tribunal.

10. With regard to other heads, the amount awarded by the Tribunal appears to be reasonable and needs no interference. Therefore, the Compensation awarded by the Tribunal is reworked as tabulated below:



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Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For partial permanent disability	Rs.75,000/-	Rs.75,000/-	Confirmed
2	For pain and suffering	Rs.25,000/-	Rs.25,000/-	Confirmed
3	For extra nourishment	Rs.2,500/-	Rs.6,500/-	Enhanced
4	For transport expenses	Rs.2,500/-	Rs.6,500/-	Enhanced
5	For damages to clothes	Rs.500/-	Rs.500/-	Confirmed
6	For attender charges	Rs.800/-	Rs.4800/-	Enhanced
7	For medical expenses	1,17,208/-	1,17,208/-	Confirmed
8	For Future Medical Expenses	Rs.2,500/-	Rs.2,500/-	Confirmed
9	For loss of amenities	Rs.2,500/-	Rs.14,500/-	Enhanced
10	For loss of education	Rs.5,000/-	Rs.15,000/-	Enhanced
	Total	Rs.2,33,508/-	Rs.2,67,508/-	
	Rounded off	Rs.2,33,500/-	Rs.2,67,500/-	

11. Thus, the compensation awarded by the Tribunal is enhanced from **Rs.2,33,500/-** to **Rs.2,67,500/-** with interest at 7.5% per annum (except



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for Rs.2,500/- awarded towards future medical expenses) from the date of numbering of the petition i.e. 05.03.2013 till the date of realization.

12. In the result,

(i) The Civil Miscellaneous Appeal is **partly allowed**. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from **Rs.2,33,500/- to Rs.2,67,500/-**.

(iii) The 2nd respondent / Insurance Company is directed to deposit the enhanced compensation amount i.e., **Rs.2,67,500/-**. (less the amount already deposited if any) together with future interest at 7.5% per annum (except for Rs.2,500/- awarded towards future medical expenses) from the date of numbering of the petition i.e. 05.03.2013 till the date of realization, to the credit of M.C.O.P.No.1322 of 2013, on the file of the Motor Accident Claims Tribunal/IV Court of Small Causes, Chennai, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the appellant / claimant is at liberty to withdraw the same on filing of cheque petition. The claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if



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required. The Tribunal below shall disburse the enhanced amount upon production of the certified copy showing proof of payment of Court fee by the claimant.

30.06.2023

Index : Yes/No
Speaking / Non-speaking order
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To:

1. The Motor Accident claims Tribunal/
IV Court of Small Causes, Chennai
2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.



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R.KALAIMATHI, J.,

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