



WEB COPY



C.M.A.No.2858 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2023

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.2858 of 2021

Karunakaran

...Appellant

Vs

1.A.Shahul Hameed

2.National Insurance company Limited,

Motor Third Party Claims Hub,

No.751, Anna Salai,

Chennai – 600 002.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 09.04.2021 made in M.C.O.P.No.4818 of 2015 on the file of the Motor Accidents Claims Tribunal, Special Sub Court No.1, Chennai.

For Appellant : Mr.R.Navaneetha Krishnan

For R2 : Ms.R.Sree Vidhya

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the judgment and decree dated 09.04.2021 made in M.C.O.P.No.4818 of 2015 on the file of the Motor Accidents Claims Tribunal, Special Sub Court No.1, Chennai.



2.The appellant/claimant filed M.C.O.P.No.4818 of 2015 on the file of the Motor Accidents Claims Tribunal, Special Sub Court No.1, Chennai, claiming a sum of Rs.18,00,000/-, as compensation for the injuries sustained by him in the accident that took place on 14.04.2015.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the rider of the 1st respondent's vehicle and directed the 2nd respondent/Insurance Company to pay a sum of Rs.2,29,900/- along with interest at the rate of 7.5% as compensation to the appellant/claimant under following heads:

S.No	Description	Amount awarded by Tribunal (Rs)
1.	Disability	30,000
2.	Pain and Suffering	20,000
3.	Transportation	3,000
4.	Medical Expenses	1,23,389
5.	Extra Nourishment	10,000
6.	Attender Charges	2,500
7.	Loss of Earnings	21,000
8.	Loss of Future Prospects	20,000
	Total	2,29,889 rounded off to 2,29,900



C.M.A.No.2858 of 2021

WEB COPY

4. Aggrieved over the award passed by the Tribunal, the appellant/claimant filed the present appeal challenging the quantum of compensation.

5. Learned counsel appearing for the appellant/claimant would submit that the accident took place on 14.04.2015. Due to the said accident, the appellant/claimant sustained grievous injuries and therefore, the Medical Board has assessed disability at 10%. The Tribunal fixed a sum of Rs.3,000/- per percentage and awarded a sum of Rs.30,000/- towards disability, which is meager. The accident took place in the year 2015, therefore, the Tribunal ought to have awarded a sum of Rs.5,000/- per percentage. As far as loss of earnings is concerned, the Tribunal has fixed a sum of Rs.7,000/- per month and awarded a sum of Rs.21,000/- towards loss of earnings for three months, which is on the lower side and prayed to fix the monthly income of the injured as Rs.15,000/- since he was working as driver at the time of accident.



6.Learned counsel appearing for the 2nd respondent/Insurance Company would submit that a sum of Rs.4,000/- may be fixed as per percentage of disability and for loss of earning a sum of Rs.9,000/- per month may be fixed.

7.Heard the learned counsel appearing for the appellant/claimant as well as the 2nd respondent/Insurance Company and perused the materials available on record.

8.Taking into consideration the submission made by the learned counsel appearing for either parties, it is seen that the appellant/claimant was self-employed (driving auto). Considering the nature of avocation of the injured and considering the fact that the injured has suffered leg injury, this Court is inclined to fix a sum of Rs.4,000/- per percentage of disability. Accordingly, the amount awarded by the Tribunal towards disability at a sum of Rs.30,000/- stands increased to Rs.40,000/-. As far as loss of income is concerned, the Tribunal has awarded loss of income for three months taking the monthly income of the injured as Rs.7,000/- and the same is meager. Since the accident is of the year 2015, this Court feels that the income of the injured has to be



fixed at Rs.15,000/-. Further, since the injured is driver and he suffered leg injury, this Court is inclined to award compensation towards loss of income for four months. Accordingly, the amount awarded by the Tribunal towards loss of earning stands increased from Rs.21,000/- to Rs.60,000/-. The compensation awarded by the Tribunal under all other heads are just and fair and the same stands confirmed. Thus, the compensation awarded by the Tribunal is re-determined as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)
1.	Disability	30,000	40,000
2.	Pain and Sufferings	20,000	20,000
3.	Transportation	3,000	3,000
4.	Medical Expenses	1,23,389	1,23,389
5.	Extra Nourishment	10,000	10,000
6.	Attender Charges	2,500	2,500
7.	Loss of Earnings	21,000	60,000
8.	Loss of Future Prospects	20,000	20,000
	Total	2,29,889 rounded off to 2,29,900	2,78,889 rounded off to 2,78,900

9.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,29,900/- is hereby enhanced to



C.M.A.No.2858 of 2021

Rs.2,78,900/- with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. The appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. The 2nd respondent/Insurance Company is directed to deposit the modified award amount along with interest and costs now determined by this Court, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. Thereafter, the Tribunal is directed to transfer the award amount to the appellant/claimant by way of RTGS to his bank account directly, within a period of three weeks from the deposit being made or from date of furnishing the RTGS particulars by the appellant/claimant, whichever is later. On such deposit, the appellant is permitted to withdraw the entire award amount along with interest. No costs.

13.07.2023

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

rst



WEB COPY



C.M.A.No.2858 of 2021

To:

The Motor Accident Claims Tribunal
The Special Sub-court No.1, Chennai.



WEB COPY



C.M.A.No.2858 of 2021

KRISHNAN RAMASAMY,J.

rst

C.M.A.No.2858 of 2021



WEB COPY



C.M.A.No.2858 of 2021

13.07.2023