



WEB COPY



C.M.A.No.1927 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

C.M.A.No.1927 of 2020

V.Ramanakumar

...Appellant

Vs.

1. O.Silambarasi

(R1 set exparte in the Trial court, notice may be dispensed with)

2. United India Insurance Company Limited,
Motor Third Party Claims Hub,
Sillingi Building, No.132, Greaves Road,
Chennai – 600 006.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 21.01.2020 made in MACT O.P.No.6009 of 2017 on the file of the Motor Accidents Claims Tribunal, Chennai, (On the Special Sub-Judge-I, Court of Small Causes, Chennai).

For Appellant : Mr.K.Suryanarayanan

For Respondents : No Appearance, for R1
Mrs.R.Rathna Thara, for R2



C.M.A.No.1927 of 2020

WEB COPY

JUDGEMENT

Challenging the judgment and decree dated 21.01.2020 made in MACT O.P.No.6009 of 2017 on the file of the Motor Accidents Claims Tribunal, Chennai, Special Sub-Judge-I, Court of Small Causes, Chennai, the claimant is before this Court.

2. The case of the appellant is that, on 14.09.2017 at about 14.00 Hours, when the appellant was riding a two wheeler bearing Regn.No.TN-19-AB-2525 in GTS Road, Chengelpet to Tambaram side at Anna Salai Junction, a Car bearing Regn.No.PY-01-BY-5885, owned by the 1st respondent, insured with the 2nd respondent, driven by its driver in a rash and negligent manner, came and hit against the appellant vehicle, due to which, the appellant sustained grievous injuries all over his body. Thereby, the appellant filed a claim petition claiming a compensation of Rs.20,00,000/-. After contest, the tribunal, vide impugned judgment awarded a compensation of Rs.8,07,950/-. Aggrieved with the said order, the present appeal has been filed by the



C.M.A.No.1927 of 2020

claimant seeking enhancement of the compensation fixed.

WEB COPY

3. Learned counsel appearing for the appellant submitted that admittedly, the above said accident occurred solely due to the rash and negligent driving of the driver of 1st respondent vehicle, due to which, the appellant sustained grievous injuries and the medical board assessed a disability of 44%, however, the tribunal had awarded only a sum of Rs.1,32,000/- towards Disability, which is very meagre and not in consonance with the decision of the Hon'ble Division bench of this Court in the case of ***Chinnathambi Vs. Deepa*** and the compensation awarded under other heads are also on the lower side and the same has to be necessarily enhanced. Accordingly, he prayed for appropriate orders.

4. Per contra, the learned counsel appearing for the 2nd respondent/ Insurance Company submitted that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.

5. Heard the learned counsel for the appellant and the learned counsel



C.M.A.No.1927 of 2020

appearing for the 2nd respondent and perused the materials available on record.

WEB COPY

6. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The only grievance of the appellant is with regard to the quantum of compensation awarded by the tribunal. A perusal of Ex.C1, the Disability Certificate reveals that, the appellant sustained a disability of 44%. Though the accident is of the year 2017, the tribunal had taken only a sum of Rs.3,000/- per percentage, which is contrary to the dictum laid down in a catena of decisions relating to fixation of amount towards per percentage. Therefore, taking a sum of Rs.5,000/- per percentage of disability and as the disability sustained by the appellant is 44%, the loss of earning due to disability is reassessed on percentage basis and accordingly, this Court awards a sum of Rs.2,20,000/- towards loss of earning capacity ($\text{Rs.5,000/-} \times 44 = 2,20,000/-$). Further, the compensation awarded by the Tribunal under the heads Pain and sufferings, Transportation and Attender charges are also on the lower side and thereby, the same is enhanced to Rs.75,000/-, Rs.10,000/- and Rs.20,000/- respectively. This Court feels that a



C.M.A.No.1927 of 2020

sum of Rs.30,000/- under the head future medical expenditure would be a just and reasonable compensation and, accordingly, the said sum is awarded under the said head as no compensation has been awarded by the Tribunal.

7. Insofar as the compensation awarded under the other heads are concerned, the said compensation awarded are just and reasonable and no interference is warranted with the award of compensation under the said heads.

8. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-

Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
Disability	1,32,000/-	2,20,000/-
Pain and Sufferings	40,000/-	75,000/-
Transportation	5,000/-	10,000/-
Medical Expenses	5,44,208/-	5,44,208/-
Extra Nourishment	20,000/-	20,000/-
Attender Charges	6,750/-	20,000/-
Loss of Earnings	30,000/-	30,000/-
Loss of future prospectus	30,000/-	30,000/-
Future Medical expenditure	-	30,000/-
Total	Rs.8,07,958/-	Rs.9,79,208/-



C.M.A.No.1927 of 2020

Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
	(Rounded off to Rs.8,07,950/-	

9. The appeal is partly allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.8,07,950/-** to **Rs.9,79,208/-**. The 2nd respondent-Insurance Company is directed to deposit the said amount to the credit of MACT.O.P.No.6009 of 2017 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the said amount directly to the bank account of the appellant through RTGS within a period of two (2) weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced compensation by the appellant. There shall be no order as to costs in the present appeal.

19.12.2023

skt



C.M.A.No.1927 of 2020

Index : Yes / No
Speaking Order : Yes / No
Neutral Citation Case : Yes / No

To

- 1.The Motor Accidents Claims Tribunal / Special Sub-Judge-I,
Court of Small Causes, Chennai.
- 2.The Section Officer,
V.R. Section,
High Court, Madras.



WEB COPY



C.M.A.No.1927 of 2020

M.DHANDAPANI, J.

skt

C.M.A.No.1927 of 2020

19.12.2023