



C.M.A.No.32 of 2022

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **13.07.2023**

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A.No.32 of 2022

R.Mathivanan

... Appellant

Vs

1.C.Ravi

2.The New India Assurance Co., Ltd.,
No.45, Moore Street, Chennai – 600 001.
Now at
“Bombay Mutual Building” 6th Floor,
No.232, N.S.C. Boase Road,
Chennai – 600 001.

... Respondents

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicle Act, 1988 against the Judgment and Decree in MCOP.No.3704 of 2013, dated 13.07.2023 on the file of VI Judge, Small Causes Court, (Motor Accidents Claims Tribunal), Chennai.



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For Appellant : Mr.Terry Chella Raja
for Mr.A.Shanmugaraj

For Respondents : R1 – Notice dispensed with
Mr.R.Sankar Narayanan for R2

JUDGMENT

The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the award dated 13.07.2020 made in M.C.O.P.No.3704 of 2013 on the file of learned VI Judge, Small Causes Court (Motor Accident Claims Tribunal) Chennai.

2. The appellant is Claimant in M.C.O.P.No.3704 of 2013 on the file of learned VI Judge, Small Causes Court (Motor Accident Claims Tribunal) Chennai. He filed the said claim petition claiming a sum of Rs.3,00,000/- as compensation for the injuries sustained due to the accident that took place on 14.08.2012.

3. According to the appellant, on the date of accident i.e., on 14.08.2012, while he was traveling as a passenger in the bus bearing



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registration No.PY 01 AK339 along Tindivanam to Chennai National Highway from south to north direction, the driver of the above bus drove the same in a rash and negligent manner at a dangerous speed and dashed against a tree and caused the grievous injuries to the appellant; that the above accident was reported to Olakur Police Station and a case in Crime No.4444 of 2012 was registered against the driver of the bus bearing registration PY 01 AK339 for the offence under Sections 279 and 337 of IPC; that due to the accident, the appellant suffered grievous injuries and he was entitled to a compensation of Rs.3 lakhs.

4. The first respondent, who is the driver of the bus, remained ex-parte before the Tribunal.

5. The second respondent is the insurer of the bus bearing registration No. PY 01 AK339. The second respondent filed a counter denying all the averments in the claim petition and stated that in any



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event the claim is excessive.

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6. Before the Tribunal, the appellant examined himself as PW1 and Doctor P.R.Dhanasekaran was examined as PW2 and marked 10 documents as Exs.P1 to P10. The 2nd respondent/Insurance Company did not let in any oral and documentary evidence.

7. The Tribunal considering the pleadings, oral and documentary evidence held that the claimant suffered injuries due to the rash and negligent the act of the driver of the bus and directed the 2nd respondent/Insurance Company being the insurer of the bus to pay a sum of Rs.2,10,108/- as compensation to the appellant.

8 (a). The learned counsel for the appellant submitted that the quantum of compensation awarded by the Tribunal is meagre. The Tribunal had rightly applied the multiplier method. The Tribunal ought to have accepted the disability certificate Ex.P8, issued by the Doctor,



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wherein the Doctor had stated that the claimant had suffered partial permanent disability of 20%.

(b) The learned counsel further submitted that the Tribunal without any basis had taken the disability at 10%. The learned counsel further submitted that the income fixed by the Tribunal at Rs.8,755/- is also not correct, as the claimant was earning R.9,800/- per month. The Tribunal had erroneously taken into consideration the income after deductions.

9. Per contra, the learned counsel appearing for the Insurance Company, submitted that the adoption of multiplier method is erroneous. In any case the Award of the Tribunal fixing the functional disability at 10% cannot be faulted, considering the nature of injuries. Further the claimant was only treated as an out patient and had not suffered any serious injuries. As regards the income, the Tribunal had relied upon Ex.P7 produced on the side of the appellant which is the



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Salary Account Statement, which reveals that the appellant was receiving Rs.8,755/- per month. Therefore, the learned counsel submitted that the Award of the Tribunal is just.

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

11. This Court, on perusal of the award of the Tribunal and on perusal of the oral and documentary evidence on record, finds that the P.W.2, the Doctor had issued a certificate Ex.P8 fixing the partial permanent disability as 25% considering the nature of injuries suffered by the claimant.

12. The Tribunal had assessed the functional disability at 10% for the purpose of adopting the multiplier method. This Court finds that considering the nature of injuries and the fact that the multiplier method



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had been adopted, the award of the Tribunal fixing functional disability at 10% for assessing the loss of income is just. The said finding cannot be faulted in any manner. As regards income, admittedly, the Salary Certificate of the claimant was marked before the Tribunal as Ex.P7, in which it is shown that the claimant received Rs.8,755/- as monthly income.

13. The Tribunal has awarded compensation under the following heads in the following manner:

<i>S.No</i>	<i>Description</i>	<i>Amount awarded by Tribunal (Rs)</i>
1.	Functional Disability	1,89,108
2.	Pain and suffering	5,000
3.	Extra nourishment	5,000
4.	Transportation	5,000
5.	Damages to cloth	1,000
6.	Loss of Amenities	5,000
	Total	Rs.2,10,108/-

14. The Tribunal had rightly fixed the monthly income and



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adopted the multiplier method as stated earlier. The Award of compensation under the other heads are justified. Therefore, this Court is of the view that there is no infirmity in the award passed by the Tribunal and the award passed by the Tribunal is confirmed.

15. In the result, this Civil Miscellaneous Appeal is dismissed and the sum of Rs.2,10,108/- awarded by the Tribunal as compensation to the appellant along with interest and costs is confirmed. The second respondent /Insurance Company is directed to deposit the entire award amount along with interest and costs, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant is permitted to withdraw the award amount along with proportionate interest and costs, less the amount if any, already withdrawn. No costs. Consequently, connected miscellaneous petition is closed.

13.07.2023

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Index: Yes/ No
Speaking order : Yes/ No
Neutral citation: Yes/ No

To

- 1.The VI Judge, Small Causes Court,
(Motor Accidents Claims Tribunal),
Chennai.
- 2.The Section Officer
VR Section
High Court of Madras,
Chennai – 600 104.

SUNDER MOHAN,J.



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