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C.M.A.No.2788 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2023

CORAM

MR.JUSTICE N.SESHASAYEE

C.M.A.No.2788 of 2023

M.Pandian

... Appellant

Vs.

1.S.Mahadevan

2.Reliance General Insurance Co. Ltd.,
Reliance House, 4th Floor,
No.6, Haddows Road,
Nungambakkam, Chennai-600 034.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, seeking to enhance the compensation in MCOP.No.5524 of 2018, dated 11.11.2022 on the file of the Motor Accidents Claims Tribunal / V Court of Small Causes, Chennai.

For Appellant : Ms.Ramya V. Rao

For Respondents : Mr.G.Sukumari for R2

JUDGMENT

The appellant herein is the victim of an road accident when a two wheeler bearing No.TN 03 S 1704, of which he was a pillion rider at the time of the



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accident that took place on 25.08.2018, has approached this Court seeking enhancement of compensation.

2.The first respondent, owner of the vehicle remained ex parte before the Tribunal. Since the claimant seeks enhancement of compensation, this Court considers that notice to the first respondent is not necessary.

3.The appellant was aged about 55 years at the time of the accident and he suffered a fracture to his right proximal Tibia. His injury has been surgically corrected and he was hospitalized for two spells of 10 days. The appellant is a real estate broker, and after the accident, he hardly could walk or stand for long hours which his profession demands. He approached the Tribunal seeking compensation. The Tribunal has granted a total compensation of Rs.3,08,300/-, of which the major compensation awarded for permanent disability. Here, the Tribunal has taken into account Ex.C1, the certificate issued by the Medical Board, which has determined the disability of the appellant at 30%. Indeed, the Tribunal had awarded Rs.5,000/- for every percentage of disability. The other breakup will be indicated in the table below:



Sl. No.	Description	Amount awarded by Tribunal (Rs)
1.	Disability	Rs.1,50,000/-
2.	Medical expenses	Rs.1,300/-
3.	Future medical expenses	Rs.35,000/-
4.	Loss of income	Rs.26,000/-
5.	Pain and suffering & mental agony	Rs.30,000/-
6.	Transportation expenses	Rs.10,000/-
7.	Nutrition expenses	Rs.20,000/-
8.	Damages to clothes	Rs.1,000/-
9.	Attender charges	Rs.5,000/-
10.	Loss of amenities	Rs.30,000/-
	Total	Rs.3,08,300/-

Aggrieved by the award, the victim of the accident is now before this Court.

4.Heard Ms.Ramya V.Rao, the learned counsel for the appellant and Ms.G.Sukumari, the learned counsel appearing for the second respondent.



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5.The learned counsel for the appellant submitted that inasmuch as the appellant continues to suffer pain to his right knee and ankle, due to the injury suffered, the Tribunal has not adequately compensated him on certain non-pecuniary heads of compensation. The learned counsel for the second respondent, however supported the award along the line of reasoning of the Tribunal.

6.It is not a case where the compensation awarded by the Tribunal on the head of disability is in serious contest. However, given the nature of injuries suffered and the difficulty expressed, which cannot be homogeneous among all those who have suffered same injuries, this Court necessarily requires to enhance the compensation paid on non-pecuniary heads of compensation suitably as indicated in the tabulation below:

Sl. No	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted
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1.	Disability	Rs.1,50,000/- = 5,000 x 30 (Rs.5,000/- for each percent)	Rs.1,50,000/-	confirmed
2.	Medical expenses	Rs.1,300/-	Rs.1,300/-	confirmed
3.	Future medical expenses	Rs.35,000/-	Rs.35,000/-	confirmed
4.	Loss of income	Rs.26,000/- (13,000 x 2)	Rs.78,000/- (13,000 x 6)	enhanced
5.	Pain and suffering & mental agony	Rs.30,000/-	Rs.50,000/-	enhanced
6.	Transportation expenses	Rs.10,000/-	Rs.10,000/-	confirmed
7.	Nutrition expenses	Rs.20,000/-	Rs.20,000/-	confirmed
8.	Damages to clothes	Rs.1,000/-	Rs.1,000/-	confirmed
9.	Attender charges	Rs.5,000/-	Rs.15,000/-	enhanced
10.	Loss of amenities	Rs.30,000/-	Rs.50,000/-	enhanced
	Grand Total	Rs.3,08,300/-	Rs.4,10,300/-	Enhanced by Rs.1,02,000/-



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7.The appeal stands partly allowed and the compensation is enhanced from **Rs.3,08,300/- to Rs.4,10,300/-**. The second respondent / insurance company is

N.SESHASAYEE, J.

Anu

stated to have deposited the entire compensation amount before the Tribunal. It is now required to deposit the differential sum with interest at 7.5% per annum from the date of the claim petition till the date of deposit, less interest for 131 days, within the period of six (6) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant is permitted to withdraw the award amount, along with proportionate interest and costs as awarded by the Tribunal, 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.

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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To

The Motor Accidents Claims Tribunal / V Court of Small Causes, Chennai.

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