



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.08.2023

CORAM:
THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Civil Miscellaneous Appeal No.1967 of 2023

Thulasi Raman

... Appellant

Vs.

1.B.Sagayaraj

2.Reliance General Insurance Company Limited,

No.6, Haddows Road,

Nungambakkam.

Chennai - 600 06.

... Respondents

PRAYER : The Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 28.03.2022 in MCOP.No.2127 of 2017 on the file of the Motor Accident Claims Tribunal, V-Court of Small Causes, Chennai.

For Appellant : Mr.Amar D.Pandiya

For Respondents : Mr.P.Suresh Srinivasan for R2

Notice to R1 is dispensed with



J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant challenging the quantum of compensation awarded by the Tribunal in MCOP.No.2127 of 2017, dated 28.03.2022, on the file of the Motor Accident Claims Tribunal, V-Court of Small Causes, Chennai

2. The appellant is the claimant in MCOP.No.2127 of 2017 on the file of the Motor Accident Claims Tribunal, V-Court of Small Causes, Chennai. He filed the said claim petition claiming a sum of Rs.10,00,000/- as compensation for the greivous injuries sustained by the him in the accident that took place on 22.10.2015.

3.3. According to the appellant, on 22.10.2015 at about 06.30 hrs. while the appellant was driving his two wheeler bearing Registration No.TN-85-AY-1805 in Velachery Kanigapuram from North to South, the driver of the car bearing Registration N.TN-22-CL-3044 drove the same in a rash and negligent manner and hit against the two wheeler of the appellant. Due to the said impact, the appellant sustained multiple injuries. Therefore, the appellant filed the claim petition claiming a sum of Rs.10,00,000/- as compensation.

4. The first respondent, the owner of the offending vehicle, remained *ex-parte* before the Tribunal.



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5. The second respondent/Insurance Company filed counter statement denying all the averments made in the claim petition and stated that the accident did not happen due to the rash and negligent driving by the driver of the car and in any event, the compensation claimed by the appellant is excessive and prayed for dismissal of the claim petition.

6. Before the Tribunal, the appellant examined himself as P.W.2 and marked thirteen documents as Exs.P1 to P13. On the side of the second respondent/ Insurance Company neither oral nor documentary evidence was adduced. The Certificate issued by the Medical Board is marked as Ex.C-1.

7. The Tribunal considering the pleadings, oral and documentary evidence held that the accident occurred due to the rash and negligent act of driver of the first respondent's vehicle and directed the second respondent, being the insurer of the offending vehicle to pay a sum of Rs.1,54,800/- as compensation to the



appellant. Aggrieved over the said award, the appellant has preferred the instant appeal.

8. The learned counsel for the appellant submitted that the award of the Tribunal is meagre. Considering the fact that the appellant had suffered fractures in both bones in the right leg, the Tribunal ought to have awarded higher compensation under all the heads and hence, prayed for enhancement of the compensation awarded by the Tribunal.

9. Learned counsel for the appellant submitted that the first respondent remained *ex-parte* before the Tribunal and therefore, requested this Court to dispense with the notice to the first respondent and had also made an endorsement to that effect in the Court bundle. Hence, notice to the first respondent is dispensed with.

10. Per contra, the learned counsel for the second respondent/Insurance Company submitted that the award of the Tribunal is just and reasonable and therefore, does not call for any interference and prayed for dismissal of the appeal.



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11. Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the second respondent/Insurance Company and perused all the materials available on record before this Court.

12. The only question involved in this case is whether the compensation awarded by the Tribunal is just and reasonable?

13. Admittedly, the appellant had suffered fractures in both the bones in the right leg. The appellant had deposed before the Tribunal that he was working as a driver. However, no income proof was produced by the appellant. The appellant was also treated as an in-patient for nearly twenty eight (28) days. The disability was assessed by the Medical Board at 16%. The Tribunal had awarded Rs.4,000/- per percentage of disability which is justified. However, the compensation under the head “Loss of amenities” and “Pain and suffering”, “Extra nourishment” and “Transport expenses” can be enhanced to Rs.30,000/-, Rs.30,000/- and Rs.20,000/- respectively. Though the appellant had not produced any evidence to prove his



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income, considering his avocation and the year of accident, the monthly notional income of Rs.12,000/- can be fixed. Considering the nature of injuries, this Court is inclined to fix the treatment period as six (6) months for assessing “Loss of income”. Therefore, the appellant is entitled to Rs.72,000/- (6 x Rs.12,000) under the head “Loss of income”. Since, he was hospitalised for 28 days, he is entitled to attendant charges of Rs.20,000/-. The award of Tribunal under other heads are just and reasonable and the same are confirmed.

14. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Disability	64,000	64,000	Confirmed
2.	Loss of amenities	15,000	30,000	Enhanced
3.	Pain and suffering	15,000	30,000	Enhanced
4.	Extra nourishment & transportation	10,000	20,000	Enhanced
5.	Damages to	1,000	1,000	Confirmed



	clothes			
6.	Loss of income	40,000	72,000	Enhanced
7.	Attender charges	9,800	20,000	Enhanced
	Total	Rs.1,54,800/-	Rs.2,37,000/-	Enhanced by Rs.82,200/-

15. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,54,800/- is hereby enhanced to Rs.2,37,000/- together with interest at the rate of 7.5% per annum (excluding the default period, if any) from the date of petition till the date of deposit. The appellant is directed to pay necessary Court fee, if any, on the enhanced compensation. The second respondent/Insurance Company is directed to deposit the modified award amount now determined by this Court along with interest and costs, less the amount already deposited if any, within a period of six 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 interest and costs, after adjusting the amount if any, already withdrawn. No costs.



C.M.A.No.1967 of 2023



Index: Yes/No

Internet: Yes/No

Speaking order: Yes/ No
gba

To

1.The Court of Small Causes - V,
Motor Accident Claims Tribunal,
Chennai.

2.The Section Officer
VR Section
High Court of Madras, Chennai – 600 104.



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C.M.A.No.1967 of 2023



SUNDER MOHAN,J.

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C.M.A.No.1967 of 2023



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C.M.A.No.1967 of 2023



25.08.2023