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C.M.A.No.1134 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2023

CORAM:

THE HONOURABLE Mrs. JUSTICE R.KALAIMATHI

C.M.A.No.1134 of 2020

N.P.Srinivasan

... Appellant

vs.

1.L.Ramachandran

2.M/s.United India Insurance Co., Ltd.,
No.134, Greams Road,
Chennai 600 006.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the judgment and decree in M.C.O.P.No.2275 of 2011 dated 28.04.2014 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge No.I, Chennai.

For Appellants : Mr.T.G.Ravichandran

For R1 : Exparte

For R2 : Mrs.R.Sreevidhya

JUDGMENT

The sole claimant herein has preferred this Civil Miscellaneous Appeal against the judgment and decree passed by the Motor Accident Claims Tribunal/ Special Sub Court No.I, Chennai in M.C.O.P.No.2275 of 2011 dated 28.04.2014 for enhancement of compensation.



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2. The claim petition was filed under Section 166 of the Motor Vehicles Act and Rule 3 of M.A.C.T.Rules, claiming a compensation of Rs.75,000/- for the injury sustained by him in a road accident occurred on 31.03.2010.

3. The Tribunal having gone through the records and upon consideration of oral and documentary evidence, awarded a sum of Rs.35,500/- with interest at the rate of 7.5% p.a.from the date of numbering of the petition till i.e. 01.07.2011 (excluding the period of default if any).

4. Mr.T.G.Ravichandran, learned counsel for the appellant would strenuously contend that the claimant was aged about 24 years and working as driver of mini auto, had sustained incised wound measuring 10 cm x 1 cm over head. Though the accident occurred on 31.03.2010, still he has been suffering from giddiness and other related issues and he finds it very difficult to drive the vehicle, due to the head injury. He would further contend that though the doctor - P.W.2 has assessed the disability of the appellant as 25%, the Tribunal without any reason has taken as 5% is totally incorrect and hence prayed for enhancement of compensation.



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5. Whereas, the learned counsel for the second respondent/Insurance Company would vehemently contend that the appellant/claimant sustained only abrasion and the disability assessment by the doctor is on the higher side. The Tribunal has rightly taken the disability as 5% which needs no interference at all. Though no appeal was preferred by the Insurance Company, as the order is well reasoned and prays to confirm the same.

6. Heard the arguments of learned counsels for both sides and perused the materials on record.

7. On the claimant's side, in order to substantiate the claim, P. W.1 and P. W.2 have been examined and Exs.P1 to P7 were marked. The respondents neither examined any witnesses nor produced any documents.

8. It is the evidence of P.W.1 that on 31.03.2010 at about 12.00 hrs., while the claimant was riding his motorcycle bearing Registration No.TN.03.B.3861 from west to east direction at the junction of Narayanappan Street and Jaffar Sarang Street, an auto bearing Reg.No.TN.07.F.4543 came in a rash and negligent manner towards the



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same direction and hit the petitioner from behind and thus the accident occurred, is not in dispute.

9. As regards the injury sustained by the appellant/claimant, it could be seen from Ex.P.3 Accident Register copy, the appellant /claimant sustained incised wound over head (measuring 10 cm x 1 cm) and injury above the left eye. As there is no disability suffered, the Tribunal has concluded that he suffered a total disability of 5% and Rs.2,000/- per percentage was awarded.

10. The learned counsel for the appellant would submit that the appellant/claimant while driving auto, suffers from giddiness. One cannot deny the fact that in the case of head injury which is not a severe one some persons may suffer from giddiness head ache and other related minor issues. Therefore, considering the fact that the appellant/claimant had sustained head injury measuring 10cm x 1cm he has to all along through out the day to drive the auto, this Court deems fit to grant a sum of Rs.15,000/-.

11. The Tribunal has granted Rs.4,500/- towards loss of earning for one month. In **Syed Sadiq vs Divisional Manager, United India**



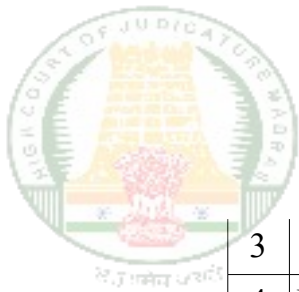
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Insurance Company Limited reported in 2014(1) TN MAC 459 SC, the Hon'ble Supreme Court has fixed the monthly income of the injured claimant, a vegetable vendor aged about 24 years, as Rs.6,500/- for the accident that occurred in the year 2008. Therefore, this Court deems fit to fix the monthly income of the claimant at Rs.7,500/-.

12. Taking note of the nature of the injury sustained by the appellant/claimant, for loss of income an amount of Rs.22,500/- is granted for three months. (Rs.7,500 x 3 months = Rs.22,500/-). In all other aspects, the compensation granted appears to be reasonable and hence, needs no interference.

13. The compensation awarded is reworked and tabulated as follows:-

Sl. No	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced
1	For Loss of earning	4,500	22,500	Enhanced
2	For Pain and sufferings	10,000	10,000	Confirmed



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3	For Medical Expenses	8,000	8,000	Confirmed
4	For Permanent disability	10,000	15,000	Enhanced
5	For Transport expenses	1,000	1,000	Confirmed
6	For Extra nourishment	2,000	2,000	Confirmed
Total		Rs.35,500	Rs.58,500	Enhanced

14. In the result,

- (i) The Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount to Rs.58,500/- from Rs.35,500/- awarded by the Tribunal.
- (ii) The second respondent / Insurance Company is directed to deposit the enhanced award amount i.e., Rs.58,500/- (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.2275 of 2011 on the file of the Motor Accident Claims Tribunal, Special Subordinate Court No.I, Chennai, within a period of four weeks from the date of receipt of a copy of this Judgment.

- (iii) On such deposit being made, the appellant/



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claimant is at liberty to withdraw the same along with interest and costs, less the amount if any already withdrawn, by making necessary cheque application before the Tribunal. No costs.

22.06.2023

Index : Yes/No
Speaking / Non-speaking order
kkd

To:

The Motor Accident Claims Tribunal,
Special Subordinate Judge No.I, Chennai.



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R.KALAIMATHI, J.,

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