



C.M.A.No.4270 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.03.2023

PRONOUNCED ON : 12.07.2023

CORAM:

THE HONOURABLE **Mrs. JUSTICE R.KALAIMATHI**

C.M.A.No.4270 of 2019

V.Naveenkumar

... Appellant

VS.

1.Simplex Infrastructure Limited,
No.27, Shakespere Salai,
Kolkatta, West Bengal 600 001.

2.M/s. Reliance General Insurance Company Limited,
C/o.Motor Third Party Claims Offices,
No.23, 3rd Floor, Spurtank Road,
Chetpet, Chennai 600 031.

... 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.944 of 2007 dated 23.07.2010 on the file of the Motor Accident Claims Tribunal, IV Fast Track Court, Chennai.

For Appellants : Mr.T.G.Balachandran

For R2 : Mr.P.Suresh Srinivasan



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given treatment as inpatient for two days. Dr.M.Saravana Bavanandham,

P.W2 assessed the disability of the injured as 30% , where as, the Tribunal without any assigning reason has taken only 25% is incorrect. He would further contend that no amount was granted for further treatment. He would further argue that the amounts awarded for pain and suffering, for loss of amenities of life and transport expenses are less and prays to enhance the compensation.

5. Per contra, the learned counsel for the second respondent / Insurance Company would vehemently argue that the doctor who treated the claimant was not examined. For the disability assessed the amount of Rs.40,000/- granted which needs no interference. In other aspects, the amount awarded appears to be reasonable and may not be interfered with.

6. It is the evidence of P.W.1 injured that on 02.02.2007 at about 15.15 hrs. while he was proceeding in motor cycle bearing Registration No.TN.07-AB-1188 along with pillion rider viz., Manivannan from Tambaram to Maduravoil on Bye-pass road, the first respondent 's cement Mixer Lorry bearing Registration No.UP-57-T-0118 came at high speed from the opposite direction and turned on right side without



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any signal and hit on the motor cycle and sustained grievous injuries, is not in dispute .

7. As regards the injury sustained by the appellant, it is seen from the discharge summary Ex.P.2 issued by doctor Soundarapandian Bone and Joint Hospital, Chennai 40, that the claimant suffered fracture on the low sub-condylar, fracture mandible right side and he was treated as inpatient for two days on 02.02.2007 and 03.02.2007. Dr.M.Sarava Bavanandham [PW2] has assessed the disability of the appellant, at 30% but the Tribunal has taken the disability as 25%. At the relevant time, the appellant was aged about 20 years, was pursuing B.Tech course in Private Engineering College. P.W.2 – Doctor who assessed the disability would state that due to the above said fracture the appellant was suffering from muscular dysfunction, the above said fracture has also caused mal-occlusion, deranged occlusion.

8. Considering the nature of injuries suffered and age of the claimant, period of treatment he had undergone, for transport expenses Rs.4,000/- is granted in addition to the amount already awarded. For pain and suffering and for loss of amenities of life, the amount of



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Rs.25,000/- each is awarded in addition to the amount already awarded.

No amount was awarded under the head of attender charges. This Court grants a sum of Rs.5,000/- for attender charges. In all other aspects the amount awarded by the Tribunal is reasonable and appears no interference.

9. Under these circumstances, the compensation under the heads awarded by the Tribunal is enhanced and modified 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	Transport Expenses	1,500	4,000	Enhanced
2	Pain and sufferings	10,000	25,000	Confirmed
3	Medical Expenses	13,400	13,400	Confirmed
4	Permanent disability	40,000	40,000	Enhanced
5	Loss of amenities	5,000	20,000	Confirmed
6	Extra nourishment	1,500	1,500	Confirmed
7	Attender charges		5,000	
Total		Rs.71,400	Rs.1,08,900	Enhanced



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10. In the result,

- (i) The Civil Miscellaneous Appeal is partly allowed by enhancing the compensation amount to Rs.71,400/- from Rs.1,08,900/- awarded by the Tribunal.
- (ii) The second respondent / Insurance Company is directed to deposit the enhanced award amount i.e., Rs.37,500/- (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.944 of 2007 on the file of the Motor Accident Claims Tribunal, Fast Track Court IV, Chennai, within a period of eight weeks from the date of receipt of a copy of this Judgment.
- (iii) On such deposit being made, the appellant/ claimant is at liberty to withdraw the same as per the Orders passed by the Tribunal after following due process of law. No costs.

12.07.2023

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



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R.KALAIMATHI, J.,

kkd

To:

The Motor Accident Claims Tribunal,
Fast Track Court IV, Chennai.

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