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C.M.A.No.1821 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2023

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

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1.S.Ramasamy (died)
2.Panchavarnam
3.Balaji
4.Vasanth Kumar
(Appellants 2 to 4 were brought
on record as legal heirs of the
deceased sole appellant as per
the order of this Court dated
23.03.2023 made in CMP No.15082
of 2021)

.. Appellants

Vs.

1. N.Kannappan

2.United India Insurance Company Limited
C/o. Motor III Party Claims Office
Silingi Building, Greams Road
Chennai-600 006.

..Respondents



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Prayer: The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the Award dated 23.01.2018 made in MCOP No.4098 of 2012 on the file of the Motor Accident Claims Tribunal/ V Judge, Small Causes Court, Chennai.

For Appellants : Mr.T.G.Balachandran

For Respondents : Mr.A.Dhiraviyanathan for R2

J U D G M E N T

The Award dated 23.01.2018 passed in MCOP No.4098 of 2012 on the file of the Motor Accident Claims Tribunal/ V Judge, Small Causes Court, Chennai, is under challenge in the present Civil Miscellaneous Appeal.

2. The 1st Appellant/claimant viz., S.Ramasamy unsatisfied with the quantum of compensation awarded by the Tribunal under the impugned award, has preferred this appeal seeking for enhancement. Pending the appeal, the 1st appellant/claimant died and therefore, his legal heirs namely wife and two sons were impleaded as appellants 2 to 4.

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3. The Motor Accidents Claim Tribunal, under the impugned award, has awarded a compensation of Rs.3,34,035/- together with interest and costs to the 1st Appellant/claimant which is detailed hereunder:

<i>Heads</i>	<i>Award Amount (Rs.)</i>
Disability of 20% at Rs.3000/- per percentage	60,000/-
Pain and Suffering	20,000/-
Loss of Income	31,000/-
Transport to hospital	3,000/-
Extra Nourishment	10,000/-
Damage to clothes	1,000/-
Cost of Medicine & Cost of treatment	1,99,022/-
Loss of amenities of Life	10,000/-
Total	3,34,035/-

4. Before the Tribunal, the Appellant/claimant has filed 13 documents which were marked as Ex.P1 to Ex.P13 and examined himself as PW1 and the Doctor, who examined the claimant as PW2. On the side of the 2nd respondent/Insurance Company, one witness was examined as RW1



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and Ex.R1 to R4 were marked. The 1st respondent/owner of the vehicle was set exparte.

5. The learned counsel appearing on behalf of the appellant mainly contended that the compensation awarded by the Motor Accident Claims Tribunal is not in commensuration with the grievousness of the injuries sustained by the appellant/claimant. The appellant/claimant sustained blunt injury of abdomen and jejunal perforation of abdomen which are grievous in nature, due to the accident and had taken treatment as inpatient from 16.06.2012 to 23.06.2012. The appellant was running a Teastall and was earning about Rs.15,000/- per month, at the time of accident and there is a loss of earning power. The doctor assessed the disability at 30%, but the Tribunal has erroneously reduced the same to 20% without considering the nature of injuries sustained by the appellant/claimant. The Tribunal has also failed to apply multiplier method. Further, the compensation awarded under the conventional heads is very meagre. Hence, the learned counsel prays to enhance the award.

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6. The learned counsel appearing on behalf of the second respondent/Insurance Company disputed the contentions by stating that the Tribunal has assessed the compensation with reference to the documents produced by the claimant. Thus, the award given by the Tribunal is to be confirmed and the appeal is to be dismissed.

7. Considering the arguments, the accident occurred on 15.06.2012 at about 17.00 hours at Velacherry Tambaram Main Road -Medavakkam Koot Road, opposite to Vignesh Vegetable shop. While the 1st appellant/claimant was travelling as pillion rider in Hero Honda motor cycle bearing Registration No.TN-01-R-1586, the rider cum owner of the motor cycle who is the 1st respondent herein had driven the vehicle in a rash and negligent manner and at that time, he applied sudden brake to avoid collision with the vehicle proceeding in front of him resulting in falling of both causing grievous injury to the claimant and simple injury to rider. The Mount Traffic Investigation, Pallavaram registered a case in connection with the accident. The 1st appellant/claimant sustained grievous injuries viz., i)



blunt injury abdomen, ii) jejunal perforation, and multiple injuries all over the body. The Tribunal adjudicated the issues with reference to the documents and evidences produced by the respective parties. The negligence was attributed against the rider cum owner of the motor cycle, which belongs to the 1st respondent herein. The findings of the Tribunal is that the rider of the motorcycle had driven the vehicle in a rash and negligent manner which resulted in an accident.

8. The doctor/PW2 assessed the disability at 30%. However, the Tribunal has reduced the same to 20%. In the considered view of this Court, after giving due consideration to the nature of the injuries, this Court assesses the disability suffered by the 1st Appellant/claimant at 25%. As far as the quantum of compensation is concerned, the Tribunal has rightly fixed a sum of Rs.3,000/- for one percentage of disability since the accident occurred in the year 2012.



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9. The compensation awarded under the heads viz., pain and suffering, transport to hospital, extra nourishment and loss of amenities is very meagre in the considered view of this Court and hence, this Court is inclined to enhance a sum of Rs.25,000/- instead of Rs.20,000/- towards pain and suffering, Rs.4,000/- instead of Rs.3,000/- towards transport to hospital, Rs.15,000/- instead of Rs.10,000/- towards extra nourishment and Rs.15,000/- instead of Rs.10,000/- towards loss of amenities of life.

10. With regard to the compensation awarded by the Tribunal under the heads namely loss of income, damages to clothes and cost of medicine and cost of treatment is concerned, the assessment of the compensation under the said heads by the Tribunal is just a compensation and it does not call for any interference by this Court.

11. For the forgoing reasons, the compensation awarded by the Tribunal is modified as follows:



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<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Award Amount by this Court (Rs.)</i>
Disability	60,000/- ((3000 x 20%)	75,000/ - (3000 x 25%)
Pain and suffering	20,000/-	25,000/-
Loss of Income	31,000/-	31,000/-
Transport to hospital	3,000/-	4,000/-
Extra Nourishment	10,000/-	15,000/-
Damages to cloths	1,000/-	1,000/-
Cost of medicine and cost of treatment	1,99,022/-	1,99,022/-
Loss of amenities	10,000/-	15,000/-
Total	3,34,022/- rounded off to Rs.3,34,035/-	3,65,022/- rounded off to Rs.3,65,025/-

Accordingly, the appellants are entitled to a compensation of Rs.3,65,025/-
(Rupees three lakhs sixty five thousand and twenty two only along with



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interest at the rate of 7.5% per annum from the date of claim petition till the date of realization and the total amount of compensation shall be shared by the appellants 2 to 4 herein equally.

12. In the result,

(i) This appeal is partly allowed and the compensation awarded by the Tribunal is enhanced from 3,34,035/-/- to Rs.3,65,025/- with interest at the rate of 7.5% p.a. from the date of claim petition till the date of realisation.

(ii) The second Respondent/Insurance Company is directed to deposit the modified amount i.e, Rs.3,65,025/- along with interest at the rate of 7.5% per annum and costs, after deducting the amount already deposited, if any, to the credit of MCOP.No.4098 of 2012 within a period of four weeks from the date of receipt of a copy of this Judgment.



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(iii) On such deposit, the appellants are permitted to withdraw their portion of the award amount by filing an appropriate application and the payments are to be made through RTGS. No costs.

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Index : Yes/No
Speaking Order/Non-Speaking Order
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To

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

2.The Section Officer,
V.R Section,
High Court, Madras.

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