



WEB COPY



CMA.No.1685 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.No.1685 of 2023

S.Ganesan

... Appellant

VS.

1. R.Muruganandam

2. United India Insurance Co. Ltd.,
Siling Building, Hub,
No.134, Greams Road,
Chennai - 600 006.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 30.03.2021 in M.C.O.P.6876/2013 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.II, Small Causes Court, Chennai.

For Appellants : Mrs.A.Subadra for
Mr.A.Shanmugaraj

For R2 : Mr.R.Rajesh

J U D G M E N T

The appellant is the claimant in M.C.O.P.6876/2013 on the file of the Motor Accident Claims Tribunal, Chennai. He filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking



CMA.No.1685 of 2023

compensation of Rs.4,00,000/- for the injuries sustained by him in a road accident which happened on 22.04.2012.

2. The brief case of the appellants / claimants is as follows :

On 22.04.2012, the appellant was walking along Vilathikulam - Madurai Road and at about 9.15. p.m., a speeding car bearing Registration number TN-39-Y-1908 belonging to the first respondent came in a rash and negligent manner and hit the appellant, as a result of which, he sustained injuries all over his body.

3. According to the claimant, the rash and negligent driving of the driver of the car bearing Registration number TN-39-Y-1908 was the cause of the accident and that since the said vehicle was insured with the second respondent, the United India Insurance Company Limited, the owner and the insurer are jointly and severally liable to pay compensation to him.

4. In the Tribunal, the first respondent, the owner of the vehicle remained absent and was set *exparte*. The second respondent resisted the



CMA.No.1685 of 2023

claim petition on all the grounds available to the insurer under Section 170 of the Motor Vehicles Act.

5. The Tribunal, after analysing the evidence on record, awarded a compensation of Rs.68,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation, vide its orders dated 30.03.2021.

6. Aggrieved over the quantum of compensation awarded passed by the Tribunal, the appellant / claimant has filed the present appeal under Section 173 of the Motor Vehicles Act.

7. Heard Mrs.A.Subadra, learned counsel appearing for the appellants and Mr.R.Rajesh, learned counsel for the second respondent.

8. Mrs.A.Subadra, learned counsel appearing for the appellants contended that though the petitioner sustained head injury and an injury on the right elbow, the Tribunal had fixed only a sum of Rs.5,000/- per percentage of the disability which according to her is on the lower side.



CMA.No.1685 of 2023

She therefore prayed for enhancing the same. She also prayed for enhancement of compensation awarded under other heads.

9. Per contra Mr.R.Rajesh, learned counsel appearing for the second respondent contended that the Tribunal had taken into consideration of the disability sustained by the claimant and awarded a just compensation and therefore, the same need not be disturbed.

10. It is pertinent to point out that the disability certificate showing 30% of partial permanent disability, was issued by P.W.3 who did not give treatment to the claimant. Hence, the Tribunal had taken 10% of disability and fixed Rs.3,000/- per percentage disability. According to P.W.3, the claimant had sustained head injury and injuries on right elbow. Considering the same, this Court is of the opinion that fixing a sum of Rs.3,000/- per percentage of partial permanent disability for 15% disability would meet the ends of justice.

11. According to the claimant, he was working as a clerk in 'Vidial Trust' and was earning a sum of Rs.7,000/- p.m., and on account of



the accident, he was bedridden for three months.

WEB COPY

12. The monthly notional income of Rs.6,000/- fixed by the Tribunal is just and reasonable, in the absence of income proof. The following tabular column shows the modified compensation amount:

S.No.	Heads	Amount awarded by the Tribunal	Award of this Court
1.	Partial Permanent Disability	Rs.30,000/- (10X3,000)	Rs.45,000/- (15X3,000)
2.	Pain and Sufferings	Rs.10,000/-	Rs.10,000/-
3.	Transportation charges	Rs.5,000/-	Rs.5,000/-
4.	Extra nourishment	Rs.5,000/-	Rs.5,000/-
5.	Loss of income	18,000/-	Rs.18,000/-
	Total	Rs.68,000/-	Rs.83,000/-

13. The compensation awarded by the Tribunal is enhanced from Rs.68,000/- to Rs.83,000/- which would carry interest at the rate of 7.5% per annum.

14. In the result,

- The Civil Miscellaneous Appeal is partly allowed. No costs.
- The compensation awarded by the Tribunal is enhanced from Rs.68,000/- to Rs.83,000/-.
- The appellant / claimant is directed to pay court fee for the enhanced compensation amount, if any, within a period of four



CMA.No.1685 of 2023

WEB COPY

weeks from the date of this order and the Registry is directed to draft the decree only after receipt of the Court fee.

- iv. The second respondent, United India Insurance Company Limited is directed to deposit the modified award amount i.e. Rs.83,000/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of a copy of this order / uploading of this order to the credit of M.C.O.P.6876/2013 on the file of the Motor Accidents Claims Tribunal, Special Sub Court No.II, Small Causes Court, Chennai.
- v. On such deposit being made the appellant, claimant is permitted to withdraw the same with accrued interest and costs, after following due process of law.

23.08.2024

Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes / No
vum
To

1.The Motor Accidents Claims Tribunal,
Special Sub Court No.II, Small Causes Court,
Chennai

2.The Section Officer, VR Section,



Madras High Court, Chennai.

WEB COPY



CMA.No.1685 of 2023

R.HEMALATHA, J.

vum



WEB COPY



CMA.No.1685 of 2023

C.M.A.No.1685 of 2023

23.08.2024
(2/2)