



Civil Miscellaneous Appeal No.756 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.756 of 2024

Senthilkumar
S/o.Govindaraman

... Appellant

Vs.

1.S.Nachiappan

2.National Insurance Co. Ltd.,
Motor TP Hub,
Regina Mansion,
No.46, 3rd Floor, Moore Street,
Chennai - 600 001.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 11.04.2023 made in M.C.O.P.No.1722 of 2018 on the file of Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.

For Appellant : Mr.K.Varadhakamaraj

For Respondents : Mr.S.Senthil Kumar [R2]

JUDGMENT



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The appellant/claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai, has filed this appeal against the award passed in M.C.O.P.No.1722 of 2018, dated 11.04.2023.

2. The case of the claimant is that on 11.02.2018 he was riding a two wheeler and he was proceeding from Kumarasami Street at Perambur High Road and at about 19.45 hours, the offending vehicle, an auto, was driven in a rash and negligent manner and it hit the two wheeler and as a result, the claimant suffered right leg foot crush injury and injuries all over the body. The claimant undertook treatment as an inpatient for nearly 65 days from 11.02.2018 to 16.04.2018 and his forefoot was amputated. The Medical Board assessed the permanent disability at 23%. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking compensation.

3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place due to the rash and negligent



driving on the part of the offending vehicle. Having rendered such a finding, the Tribunal proceeded to determine the compensation and awarded total compensation of Rs.5,89,500/- under various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Disability	4,62,000/-
2.	Medical expenses	-
3.	Loss of Amenities	40,000/-
4.	Loss of income	33,000/-
5.	Attender charges	32,500/-
6.	Pain and Suffering	30,000/-
7.	Nutrition expenses	15,000/-
8.	Transportation expenses	5,000/-
9.	Damages to clothes	2,000/-
	Total	6,19,500/-

Though the total compensation arrived at by the Tribunal was Rs.6,19,500/-, only a sum of Rs.5,89,500/- was directed to be paid with interest at 7.5% p.a.

4. The claimant, not being satisfied with the compensation awarded by the Tribunal, has approached this Court seeking for enhancement of



compensation.

5. Heard Mr.K.Varadhakamaraj, learned counsel for appellant/claimant and Mr.S.Senthil Kumar, learned counsel for second respondent insurance company.

6. This Court carefully considered the submissions made on either side and the materials available on record.

7. This Court also carefully went through the award passed by the Tribunal.

8. The main grievance expressed by learned counsel for appellant pertains to the notional monthly income fixed by the Tribunal at Rs.11,000/-. The claimant claimed that he was a welder in a private company and was earning nearly Rs.30,000/- p.m. There was no material to show the occupation of the claimant and the monthly income earned by him. Therefore, the Tribunal fixed the notional monthly income at Rs.11,000/-.



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9. Considering the fact that the accident had taken place in the year 2018 and the claimant was aged about 43 years and claimed to be working as a welder and his forefoot was also amputated, this Court is inclined to fix the notional monthly income at Rs.13,000/- p.m. Accordingly, the compensation under the head 'disability' is calculated as follows:

Monthly Income	:	Rs. 13,000/-
Add: Future Prospects 25% of Rs.13,000/-	:	Rs. 3,250/- ----- Rs. 16,250/-
Annual Income (16,250 * 12)	:	Rs. 1,95,000/-
Multiplier	:	x 14 ----- Rs.27,30,000/- x 20% -----
Disability	:	Rs. 5,46,000/- -----

10. It is seen from records that the claimant has undergone treatment as an inpatient for nearly 65 days and his forefoot was amputated. Therefore, this Court is inclined to enhance the compensation under the head 'Pain and Suffering' from Rs.30,000/- to Rs.50,000/-.



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11. The compensation awarded under the other heads is reasonable and it does not require the interference of this Court.

12. In the light of the above discussion, this Court modifies the compensation in the following manner:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount awarded by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	Disability	4,62,000/-	5,46,000/-
2.	Medical expenses	-	
3.	Loss of Amenities	40,000/-	40,000/-
4.	Loss of income	33,000/-	39,000/-
5.	Attender charges	32,500/-	32,500/-
6.	Pain and Suffering	30,000/-	50,000/-
7.	Nutrition expenses	15,000/-	15,000/-
8.	Transportation expenses	5,000/-	5,000/-
9.	Damages to clothes	2,000/-	2,000/-
	Total	6,19,500/-	7,29,500/-
	Awarded	5,89,500/-	7,29,500/-

13. The compensation awarded by the Tribunal at Rs.5,89,500/- is enhanced to Rs.7,29,500/-. The second respondent insurance company is directed to deposit the enhanced compensation, less the amount already



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deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of six weeks from the date of receipt of this judgment. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

In the result, the Civil Miscellaneous Appeal is allowed in the above terms. No costs.

24.06.2024

Speaking Judgment/Non-speaking Judgment
Index : Yes/No
Neutral citation: Yes/No
gm

To
The Motor Accident Claims Tribunal,
IV Court of Small Causes,
Chennai.

N.ANAND VENKATESH, J.

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