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Civil Miscellaneous Appeal No.788 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.788 of 2024

Nagarajan
S/o.Narayanan

... Appellant

Vs.

1.R.Vasanthi
W/o.Ramasamy

2.The Branch Manager,
National Insurance Company Ltd.,
No.19/B, S.R.Complex, Rajamani Thottam,
Bhavani Main Road, NH 47, Sankagiri,
Salem District - 637 301.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 24.07.2020 made in M.C.O.P.No.96 of 2019 on the file of Motor Accident Claims Tribunal, Special Sub Judge, Krishnagiri.

For Appellant : Mr.S.P.Yuaraj

For Respondents : Mr.D.Bhaskaran [R2]



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JUDGMENT

WEB COPY This appeal has been filed by the claimant seeking for enhancement of compensation against the award passed by the Motor Accident Claims Tribunal, Special Sub Judge, Krishnagiri, in M.C.O.P.No.96 of 2019, dated 24.07.2020.

2. The claimant, who is the injured in this case, was travelling in a two wheeler on 23.05.2017 at about 9.00 a.m. at Krishnagiri-Kuppam Road. When the two wheeler came near the Government High School, the lorry that was owned by the first respondent was driven in a rash and negligent manner and as a result, the two wheeler ridden by the appellant was hit and due to the impact, the appellant was thrown away from the vehicle and as a result, he sustained 'diffuse axonal injury with fracture of left fibula, swelling in occipital region and multiple facial abrasion'. It is under these circumstances, the appellant filed the claim petition before the Tribunal seeking for compensation.

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



lorry that was owned by the first respondent. Insofar as the fixation of compensation is concerned, the Tribunal determined the total compensation at Rs.3,28,177/- in the following manner:

Sl.No.	Compensation awarded under the head	Amount (in Rs.)
1.	40% disability [40 * Rs.3,000/-]	1,20,000/-
2.	Medical expenses	1,01,177/-
3.	Transport expenses	10,000/-
4.	Nutrition and attender charges	15,000/-
5.	Pain and sufferings	32,000/-
6.	Social amenities	32,000/-
7.	Loss of income during treatment period [2 * 8500]	17,000/-
8.	Damage to clothes & articles	1,000/-
	Total	3,28,177/-

4. The claimant, who was not satisfied with the compensation awarded by the Tribunal, has filed this appeal seeking for enhancement of compensation.

5. Heard Mr.S.P.Yuaraj, learned counsel for appellant/claimant and Mr.D.Bhaskaran, learned counsel appearing for second respondent insurance company.

6. This Court has carefully considered the submissions made on



either side and the materials available on record and also the award that was passed by the Tribunal.

7. On carefully going through the various heads on which the Tribunal has fixed the compensation, this Court finds that the only head which requires the consideration of this Court is with respect to notional income that was fixed by the Tribunal while awarding compensation under the head disability. In the instant case, the appellant/claimant was working as a welder. He had suffered permanent disability at 40%. The Tribunal has awarded Rs.3,000/- per percentage of disability, which is definitely on the lower side.

8. The Division Bench of this Court in C.M.A.No.3334 of 2021 by order dated 15.06.2022 [Future General India Insurance Company Limited v. Manivannan and others] taking into consideration the raise in the cost of living and considering the fact that the accident had taken place in that case in the year 2017, has fixed Rs.7,000/- per percentage of disability. The same can be applied to the facts of the present case also.

9. In the light of the above discussion, insofar as the compensation



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for disability is concerned, the same is modified as Rs.2,80,000/- [Rs.7,000*40]. The compensation that has been awarded under all the other heads does not require the interference of this Court. To that extent, the award passed by the Tribunal shall stand modified.

10. Accordingly, the compensation awarded by the Tribunal is modified as follows:

Sl.No.	Compensation awarded under the head	Amount (in Rs.)
1.	40% disability [40 * Rs.7,000/-]	2,80,000/-
2.	Medical expenses	1,01,177/-
3.	Transport expenses	10,000/-
4.	Nutrition and attender charges	15,000/-
5.	Pain and sufferings	32,000/-
6.	Social amenities	32,000/-
7.	Loss of income during treatment period [2 * 8500]	17,000/-
8.	Damage to clothes & articles	1,000/-
	Total	4,88,177/-

11. The compensation awarded by the tribunal at Rs.3,28,177/- is enhanced to Rs.4,88,177/-. The second respondent insurance company is

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directed to deposit the enhanced compensation of Rs.4,88,177/-, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.1,60,000/- is concerned, the claimant will not be entitled for interest for the period of delay of 587 days as was ordered by this Court in C.M.P.No.1045 of 2024, dated 14.03.2024. The other directions issued by the tribunal with regard to the mode of payment of compensation remains unaltered.

This Civil Miscellaneous Appeal is disposed of in the above terms.

No costs.

02.04.2024

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

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To

The Motor Accident Claims Tribunal,

Special Sub Judge,

Krishnagiri.

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