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C.M.A.No.3787 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3787 of 2019

A.Mohammed Nazir

... Appellant

Vs.

1.K.Senthilnathan

2.The Manager

United India Insurance Co. Ltd.,
Silingi Building,
No.134, Greams Road,
Chennai – 600 006.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award and decree made in M.C.O.P.No.3492 of 2016 dated 07.08.2018 on the file of the Motor Accidents Claims Tribunal, Special Sub-Judge I, Chennai, by awarding a compensation of Rs.1,55,250/- and allow this CMA by enhancing the Additional compensation of Rs.5,00,000/-.

For Appellant : Mr.A.A.Venkatesan

For Respondents : R1 – NRN

Mr.D.Baskaran for R2



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J U D G M E N T

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This appeal has been filed against the judgment and decree dated 07.08.2018 passed by the Motor Accidents Claims Tribunal, Special Sub-Judge I, Chennai, in M.C.O.P.No.3492 of 2016.

2.The learned counsel appearing for the appellant submitted that on 20.03.2016, at about 15.00 hours, the appellant was travelling as a passenger in a cycle rickshaw along the T.H.Road, near Tondiarpet Manikoundu from South to North direction. At that time, a motor cycle bearing Registration No.TN 07 AS 0504 owned by the first respondent and insured with the second respondent came in a rash and negligent manner and dashed against the cycle rickshaw, due to which, the appellant sustained injuries.

3.The learned counsel appearing for the appellant further submitted that thereafter, the injured claimant/ appellant filed claim petition before the Tribunal, claiming compensation of Rs.10 Lakhs. After adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.1,55,250/- with interest at the rate of 7.5% p.a. from the date of filing of the claim petition i.e., 13.06.2016 till the date of realisation and costs and directed that the second respondent to deposit the



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compensation. Aggrieved by the same, the appellant claimant has filed this appeal for enhancement in compensation.

4.The learned counsel appearing for the appellant further submitted that the appellant has filed this appeal questioning the quantum of compensation awarded by the Tribunal. The learned counsel further submitted that the Doctor has assessed the disability of the claimant as 30%, however, the Tribunal fixed the disability at 20% and awarded a sum of Rs.3,000/- per percentage of disability which is not sustainable one and further submitted that the compensation awarded under the other heads also are meagre. The learned counsel further submitted that this Court vide order dated 18.07.2024 directed the appellant to appear before the Kilpauk Medical College Hospital, Kilpauk, Chennai for medical examination, pursuant to which, the appellant appeared before the Kilpauk Medical College Hospital, Kilpauk, Chennai and the Doctor has assessed his disability as 9% permanent disability and hence, this Court may award compensation by applying the multiplier method.

5.The learned counsel appearing for the second respondent Insurance Company submitted that the Medical Board has assessed the



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disability at 9% and hence, this Court may reduce the amount awarded towards disability from Rs.60,000/- to Rs.27,000/- and further submitted that the amount awarded by the Tribunal under the other heads are just and reasonable.

6.Heard the learned counsel appearing for the appellant claimant as well as the learned counsel appearing for the second respondent Insurance Company and perused the materials available on record.

7.This appeal has been filed only questioning the quantum of compensation awarded by the Tribunal. Hence, there is no need for any discussion with regard to negligence aspect. The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.60,000/- for disability, Rs.25,000/- for pain and sufferings, Rs.15,000/- for extra nourishment, Rs.5,000/- for transportation, Rs.6,250/- for attender charges, Rs.24,000/- for loss of earnings, Rs.20,000/- for loss of future prospectus and arrived at a total compensation of Rs.1,55,250/- with interest at the rate of 7.5% p.a. from the date of filing of the claim petition till the date of realisation.

8.Admittedly, before the Tribunal, the Doctor has assessed the



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disability of the appellant claimant as 30%, however, the Tribunal fixed the disability at 20% and awarded a sum of Rs.3,000/- per percentage of disability. This Court vide order dated 18.07.2024 directed the appellant to appear before the Kilpauk Medical College Hospital, Kilpauk, Chennai for medical examination, pursuant to which, the appellant has appeared before the Kilpauk Medical College Hospital, Kilpauk, Chennai and the Doctor has assessed his disability as 9% permanent disability. Since the disability suffered by the appellant is a permanent disability, compensation has to be awarded by applying the multiplier method.

9.The claimant claim that he was working as a coolie in private steel foundary, self employed and was earning Rs.15,000/- per month. Hence, this Court fix Rs.14,000/- as the monthly income of the claimant. The age of the claimant at the time of the accident is 60 and hence the correct multiplier to be adopted is 7. Accordingly, the amount awarded towards disability works out to Rs.1,05,840/- [Rs.14,000/- X 12 X 7 X 9%].

10.This Court is of the opinion that the amount awarded under the head pain and sufferings, extra nourishment, attender charges, in



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the opinion of this Court are low and this Court is inclined to enhance the amount awarded under the said heads. Accordingly, the amount awarded for pain and sufferings is enhanced to Rs.50,000/- from Rs.25,000/-, the amount awarded for extra nourishment is enhanced to Rs.25,000/- from Rs.15,000/- and the amount awarded for attender charges is enhanced to Rs.20,000/- from Rs.6,250/-. The amount awarded under the head transportation is confirmed. The amount awarded under the other heads, in the opinion of this Court are not necessary and the same are deleted.

11.Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Disability	Rs.60,000/-	Rs.1,05,840/-
2.	Pain and sufferings	Rs.25,000/-	Rs. 50,000/-
3.	Extra nourishment	Rs.15,000/-	Rs. 25,000/-
4.	Transportation	Rs. 5,000/-	Rs. 5,000/-
5.	Attender charges	Rs. 6,250/-	Rs. 20,000/-
6.	Loss of earnings	Rs.24,000/-	---
7.	Loss of Future prospects	Rs.20,000/-	---
	Total	Rs.1,55,250/-	Rs.2,05,840/-

12.The appellant claimant is entitled to total compensation of



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Rs.2,05,840/- along with interest at the rate of 7.5% p.a. from the date of filing of the claim petition till the date of realisation.

13.The civil miscellaneous appeal is partly allowed. The judgment and decree dated 07.08.2018 passed by the Motor Accidents Claims Tribunal, Special Sub-Judge I, Chennai, in M.C.O.P.No.3492 of 2016, is modified to the above extent.

14.The second respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such deposit being made, the appellant/ claimant is permitted to withdraw the modified/ enhanced award amount, along with accrued interest and costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal.

15.The appellant/ claimant shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The appellant/ claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accidents Claims



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M.DHANDAPANI,J.
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Tribunal, Special Sub-Judge I, Chennai, shall disburse the compensation amount upon production of certified copy showing proof of payment of Court fee by the appellant/ claimant.

16.The civil miscellaneous appeal is partly allowed. No costs.

04.11.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal,
Special Sub-Judge I, Chennai.

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