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C.M.A.No.822 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.822 of 2023

and

C.M.P.No.7635 of 2023

The Manager,
Reliance General Insurance Co.Ltd.,
19, Reliance Centre, Walchand Hirachand Marg,
Ballard Estate, Mumbai 400 001.

...Appellant

Vs

1.K.Mani
2.M.Srinivasan

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Decree and Judgement dated 05.04.2022 passed in MCOP.No.758 of 2018 by the Hon'ble Motor Accident Claims Tribunal, Special Sub Court (MAC), Krishnagiri.

For Appellant : Ms.C.Bhuvanasundari

For Respondent : Ms.R.Poornima, for R1
No appearance for R2



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JUDGMENT

This civil miscellaneous appeal has been filed challenging the judgment and decree dated 05.04.2022 passed in MCOP.No.758 of 2018.

2. The learned counsel for the claimant would submit that on 17.05.2018, while the appellant was returning to his home in a two-wheeler bearing Registration No.TN-83-V-7377, a Lorry bearing Registration No.TN-58-AH-7025 came in a rash and negligent manner and dashed against the appellant, due to which he sustained grievous injuries. Considering all the aspects, the Tribunal had awarded the compensation in the following manner:

<i>S.No</i>	<i>Heads</i>	<i>Compensation (Rs.)</i>
1	Loss of Earning	10,71,000
2	Medical Expenses	2,69,853
3	Transportation	10,000
4	Extra Nourishment and Attender's Charges	15,000
5	Pain and Sufferings	56,000
6	Social Amenities	56,000
7	Damage to clothes	1,000
8	Disability	3,50,000
	Total	18,28,853



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3. He would further submit that the Tribunal had fixed the functional disability at 70% and awarded compensation of a sum of Rs.5,000/- per percentage, which is on the higher side. She would also contend that the Tribunal had also awarded a sum of Rs.10,71,000/- towards loss of earnings due to disability by applying multiplier method, which is not correct, since the claimant is only entitled for compensation under any one head i.e., either “Disability” or “Loss of Earnings”. Hence, she requests this Court to set aside the compensation awarded by the Tribunal under any one of the heads i.e., either “Disability” or “Loss of Earnings”.

4. In reply, the learned counsel appearing for the respondent would submit that no amount was awarded towards Future Medical Expense and further, she would contend that the amount awarded towards Social Amenities, Pain and Sufferings and Extra Nourishment are on the lower side and hence, the same has to be redetermined.



5. Heard the learned counsel for the appellant and the respondents and also perused the documents available on records.

6. In the present case, since the Tribunal had awarded the compensation by applying multiplier method, the amount awarded towards loss of earnings is meant for the loss of earnings due to disability as well as disability. When such being the case, the Tribunal had wrongly awarded compensation under both the heads viz., “Disability” and “Loss of Earnings”. Therefore, this Court is inclined to set aside one of the aforesaid heads and accordingly, the compensation awarded by the Tribunal towards “Disability” by applying percentage method is set aside.

7. Further, since the amount awarded by the Tribunal towards other heads are on the lower side. That apart, it appears that no amount was awarded towards the future medical expenses. Accordingly, the compensation awarded by the Tribunal is modified as follows:

<i>S.No.</i>	<i>Heads</i>	<i>Compensation awarded by Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>	<i>Result</i>
1	Loss of Earning	10,71,000	10,71,000	Confirmed
2	Medical Expenses	2,69,853	2,69,853	Confirmed



S.No.	Heads	Compensation awarded by Tribunal (Rs.)	Compensation awarded by this Court (Rs.)	Result
3	Transportation	10,000	10,000	Confirmed
4	Extra Nourishment and Attender's Charges	15,000	1,00,000	Enhanced
5	Pain and Sufferings	56,000	1,56,000	Enhanced
6	Social Amenities	56,000	1,56,000	Enhanced
7	Damage to clothes	1,000	1,000	Confirmed
8	Disability	3,50,000	Nil	Reduced
9	Future Medical Expenses	Nil	65,000	Enhanced
	Total	18,28,853	18,28,853	Confirmed

8. Therefore, the quantum of compensation awarded by the Tribunal stands confirmed, however, the distribution of compensation under the heads are modified as stated above. In all other aspects, the award of the Tribunal stands confirmed.

9. In the result, this Civil Miscellaneous Appeal is disposed of and the appellant is directed to deposit a sum of Rs.18,28,853/- along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of



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MCOP.No.758 of 2018 on the file of the Motor Accident Claims Tribunal, Special Sub Court (MAC), Krishnagiri. Upon such deposit, the Tribunal is directed to transfer the award amount to the bank account of the claimant, by way of RTGS, within a period of three weeks from the date of deposit and receipt of the Bank details obtained from the claimant. No costs. Consequently, the connected miscellaneous petition is also closed.

26.03.2024

Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
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KRISHNAN RAMASAMY,J.

nsa

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& C.M.P.No.7635 of 2023

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