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C.M.A.Nos.328, 337 & 344 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

C.M.A.Nos.328, 337 & 344 of 2023

A.Usha Rani

.. Appellant
(in C.M.A.No.328 of 2023)

M.Krishna Sha

.. Appellant
(in C.M.A.No.337 of 2023)

R.Ramesh

.. Appellant
(in C.M.A.No.344 of 2023)

Vs.

1.S.Sathish Kumar (Exparte)

2.HDFC Ergo General Insurance Co.,
No.559, Anna Salai,
Teynampet,
Chennai – 600 018.

.. Respondents
(in all cases)

Common Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, praying to allow these appeals and enhance the compensation in M.C.O.P.Nos.8999 of 2015, 8975 of 2015 & 9188 of 2015 dated 13.07.2022 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.I, Small Causes Court, Chennai.



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(In all cases):

For Appellant(s) : Mr.Y.D.Ravi Varma
for Mr.R.Mohan Babu

For R2 : Mr.Somasundaar.N

COMMON JUDGMENT

These appeals arise out of a common award passed by the Tribunal and hence, a common judgment is passed in these appeals.

2.The claimants not being satisfied with the quantum of compensation, have filed these appeals against the award passed in M.C.O.P.Nos.8999 of 2015, 8975 of 2015 & 9188 of 2015 by the Motor Accident Claims Tribunal, Special Sub Court No.I, Small Causes Court, Chennai, dated 13.07.2022.

3.The case of the claimants is that on 06.10.2015 they were traveling in a van which was proceeding from Chennai to Kancheepuram and when this van reached Sunguvar Chathiram, the offending vehicle which was also a van came on the wrong side and dashed the van in which the claimants were traveling. The claimant in M.C.O.P.No.8975 of 2015 suffered with “OPEN FRACTURE SHAFT OF SECOND



METATARSAL OF THE LEFT LEG”, the claimant in M.C.O.P.No.8999

of 2015 suffered with “1.LEFT DISTAL RADIUS CLOSED FRACTURE, 2. RIGHT PROXIMAL TIBIA SCHATZKER TYPE II FRACTURE”, the claimant in M.C.O.P.No.9188 of 2015 suffered with “1. LEFT SUBTROCHANTERIC FRACTURE, 2. RIGHT SIDE 6, 7, 8, 9, 10 RIB FRACTURE and 3. RIGHT HEMOPNEUMOTHORAX” and “LEFT SUBTROCHANTERIC FRACTURE POST OP PFN”.

4.The claimant in M.C.O.P.No.8975 of 2015 underwent treatment as an inpatient for nearly 6 days. The claimant in M.C.O.P.No.9188 of 2015 underwent treatment as an inpatient for 25 days. The claimant in M.C.O.P.NO.8999 of 2015 underwent treatment as an inpatient for one day. The Medical Board assessed the disability for the claimant in M.C.O.P.No.8975 of 2015 at 10%, for the claimant in M.C.O.P.No.8999 of 2015 at 16% and for the claimant in M.C.O.P.No.9188 of 2015 at 30%. It is under these circumstances, the claimants filed individual claim petitions before the Tribunal seeking for payment of compensation.

5.The Tribunal considering the facts and circumstances of the case and on appreciation of the oral and documentary evidence, came to a



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conclusion that the accident had taken place only due to the rash and negligent driving on the part of the offending vehicle. The Tribunal having rendered such a finding, proceeded to fix the compensation in each claim petition as follows:

In M.C.O.P.No.8975 of 2015:

1.Disability	-	Rs.40,000/-
2.Pain and Sufferings	-	Rs.25,000/-
3.Transportation	-	Rs.4,000/-
4.Medical expenses	-	Rs.88,984/-
5.Extra nourishment	-	Rs.10,000/-
6.Attender charges	-	Rs.1,500/-
7.Loss of earnings	-	Rs.19,000/-
Total		Rs.1,88,484/-
Rounded off to	-	Rs.1,88,500/-

In M.C.O.P.No.8999 of 2015:

1.Disability	-	Rs.64,000/-
2.Pain and Sufferings	-	Rs.25,000/-
3.Transportation	-	Rs.4,000/-
4.Medical expenses	-	Rs.21,464/-
5.Extra nourishment	-	Rs.10,000/-
6.Attender charges	-	Rs.300/-



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7.Loss of earnings	-	Rs.19,000/-
Total		Rs.1,43,764/-
Rounded off to	-	Rs.1,44,000/-

In M.C.O.P.No.9188 of 2015:

1.Disability	-	Rs.1,20,000/-
2.Pain and Sufferings	-	Rs.30,000/-
3.Transportation	-	Rs.4,000/-
4.Medical expenses	-	Rs.1,80,888/-
5.Extra nourishment	-	Rs.10,000/-
6.Attender charges	-	Rs.7,500/-
7.Loss of earnings	-	Rs.28,500/-
Total		Rs.3,80,888/-
Rounded off to	-	Rs.3,81,000/-

6.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

7.The claimants not being satisfied with the quantum of compensation fixed by the Tribunal, have filed the present appeals before this Court.



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

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

11. In so far as the claimant in C.M.A.No.328 of 2023 is concerned, considering the nature of injuries sustained by him and the disability assessed by the Medical Board, this Court is inclined to fix a sum of Rs.5,000/- per percentage of disability and accordingly, the compensation under the head of disability is fixed at Rs.80,000/- (Rs.5,000/- X 16%).

12. The claimant would not have been able to attend to his regular avocation for atleast three months. The notional monthly income is fixed at Rs.10,000/- and the loss of income is arrived at Rs.30,000/- (Rs.10,000/- X 3 months). This Court is also inclined to grant a sum of



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Rs.10,000/- under the head of loss of amenities. The compensation awarded under the other heads are reasonable and does not require the interference of this Court.

13.In the light of the above discussion, the compensation fixed by the Tribunal in M.C.O.P.No.8999 of 2015 is modified as follows:

1.Disability	-	Rs.80,000/-
2.Pain and Sufferings	-	Rs.25,000/-
3.Transportation	-	Rs.4,000/-
4.Medical expenses	-	Rs.21,464/-
5.Extra nourishment	-	Rs.10,000/-
6.Attender charges	-	Rs.300/-
7.Loss of earnings	-	Rs.30,000/-
8.Loss of amenities	-	Rs.10,000/-
Total		Rs.1,80,764/-

14.In so far as the claimant in C.M.A.No.337 of 2023 is concerned, considering the nature of injuries sustained by him and the disability assessed by the Medical Board, this Court is inclined to fix a sum of Rs.5,000/- per percentage of disability and accordingly, the compensation



under the head of disability is fixed at Rs.50,000/- (Rs.5,000/- X 10%).

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15.The claimant would not have been able to attend to his regular avocation for atleast three months. The notional monthly income is fixed at Rs.10,000/- and the loss of income is arrived at Rs.30,000/- (Rs.10,000/- X 3 months). This Court is also inclined to grant a sum of Rs.15,000/- under the head of loss of amenities. Considering the nature of injuries and disability, this Court is inclined to enhance the compensation under the head of transportation to Rs.10,000/-, to enhance the compensation under the head of attender charges as Rs.5,000/-.

16.In the light of the above discussion, the compensation fixed by the Tribunal in M.C.O.P.No.8975 of 2015 is modified as follows:

1.Disability	-	Rs.50,000/-
2.Pain and Sufferings	-	Rs.25,000/-
3.Transportation	-	Rs.10,000/-
4.Medical expenses	-	Rs.88,984/-
5.Extra nourishment	-	Rs.10,000/-
6.Attender charges	-	Rs.5,000/-
7.Loss of earnings	-	Rs.30,000/-



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8.Loss of amenities	-	Rs.15,000/-

Total		Rs.2,33,984/-

17.In so far as the claimant in C.M.A.No.344 of 2023 is concerned, considering the nature of injuries sustained by him and the disability assessed by the Medical Board, this Court is inclined to fix a sum of Rs.5,000/- per percentage of disability and accordingly, the compensation under the head of disability is fixed at Rs.1,50,000/- (Rs.5,000/- X 30%).

18.The claimant would not have been able to attend to his regular avocation for atleast five months. The notional monthly income is fixed at Rs.10,000/- and the loss of income is arrived at Rs.50,000/- (Rs.10,000/- X 5 months). This Court is also inclined to grant a sum of Rs.15,000/- under the head of loss of amenities. Considering the nature of injuries and disability, this Court is inclined to enhance the compensation under the head of pain and sufferings to Rs.50,000/-, under the head of transportation to Rs.10,000/-, under the head of extra nourishment to Rs.15,000/-, under the head of attender charges to Rs.15,000/-.

19.In the light of the above discussion, the compensation fixed by



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the Tribunal in M.C.O.P.No.9188 of 2015 is modified as follows:

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1.Disability	-	Rs.1,50,000/-
2.Pain and Sufferings	-	Rs.50,000/-
3.Transportation	-	Rs.10,000/-
4.Medical expenses	-	Rs.1,80,888/-
5.Extra nourishment	-	Rs.15,000/-
6.Attender charges	-	Rs.15,000/-
7.Loss of earnings	-	Rs.50,000/-
8.Loss of amenities	-	Rs.15,000/-
Total		Rs.4,85,888/-

20.Thus,

(i)The compensation awarded by the Tribunal in M.C.O.P.No.8999

of 2015 at Rs.1,44,000/- is enhanced to Rs.1,80,764/-. The 2nd respondent-Insurance Company is directed to deposit the enhanced compensation, together with interest at 7.5% per annum from the date of claim petition till the date of deposit within a period of four (4) weeks from the date of receipt of this judgment, if not already deposited. Insofar as the enhanced compensation is concerned, the deficit Court fee, if not paid, shall be paid by the claimant. The other directions issued by the



Tribunal with regard to the mode of payment of compensation remains unaltered. No costs.

(ii)The compensation awarded by the Tribunal in M.C.O.P.No.8975 of 2015 at Rs.1,88,500/- is enhanced to Rs.2,33,984/-. The 2nd respondent-Insurance Company is directed to deposit the enhanced compensation, together with interest at 7.5% per annum from the date of claim petition till the date of deposit within a period of four (4) weeks from the date of receipt of this judgment, if not already deposited. Insofar as the enhanced compensation is concerned, the deficit Court fee, if not paid, shall be paid by the claimant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. No costs.

(iii)The compensation awarded by the Tribunal in M.C.O.P.No.9188 of 2015 at Rs.3,81,000/- is enhanced to Rs.4,85,888/-. The 2nd respondent-Insurance Company is directed to deposit the enhanced compensation, together with interest at 7.5% per annum from the date of claim petition till the date of deposit within a period of four (4) weeks from the date of receipt of this judgment, if not already deposited. Insofar as the enhanced compensation is concerned, the deficit Court fee,



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if not paid, shall be paid by the claimant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. No costs.

21.In the result, C.M.A.Nos.328 of 2023, 337 of 2023 & 344 of 2023 are partly allowed. No costs.

26.06.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

1.The Special Subordinate Judge No.I,
Motor Accident Claims Tribunal,
Special Sub Court No.I,
Small Causes Court,
Chennai.

2.The Section Officer,
VR Section,
Madras High Court,



Chennai.

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N.ANAND VENKATESH, J.

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