



C.M.A.No.2390 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2024

CORAM

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

and

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.M.A.No.2390 of 2024

and

CMP.No.18967 of 2024

and

Cross Objection No.83 of 2024

C.M.A.No.2390 of 2024

The Manager
Reliance General Insurance Company Ltd.,
Legal Department,
Reliance House, 4th Floor,
No.6, Haddows Road, Nungambakkam,
Chennai 600 006.

... Appellant

Vs.

1.Mr.S.Marimuthu
S/o.Seenan

2.J.Venkatesh
S/o.Jaishankar

... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicle Act 1988 to set aside the order and decretal order dated 26.06.2023 passed in M.C.O.P.No.3870 of 2019 on the file of the Motor Accident Claims Tribunal, (II Court of Small Causes), Chennai.



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For Appellant : Mr.G.Vasudevan

For Respondents : Ms.M.Malar

Cross Objection No.83 of 2024

S.Marimuthu,
S/o Seenan

..Appellant

-VS-

1. The Manager,
Reliance General Insurance Company Limited,
Legal Department, Reliance House, 4th Floor,
No.6, Haddows Road, Nungambakkam,
Chennai - 600 006.

2. J.Venkatesh,
S/o Jaishankar

..Respondents.

Prayer: This Cross Objection is filed under Order 41 Rule 22 of C.P.C. against the order dated 26.06.2023 passed in M.C.O.P.No.3870 of 2019 on the file of the Motor Accident Claims Tribunal, (II Court of Small Causes), Chennai.

For Appellant : Ms.M.Malar

For Respondents : Mr.G.Vasudevan for R1

COMMON JUDGMENT

*(Judgment of the Court was delivered by **J. Nisha Banu, J**)*

The Insurance Company has filed the Civil Miscellaneous Appeal aggrieved by the award passed by the Motor Accident Claims Tribunal,



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(II Court of Small Causes), Chennai in M.C.O.P.No.3870 of 2019 dated 26.06.2023. The Cross Objection has been filed by the injured claimant seeking enhancement of compensation awarded by the Tribunal.

2. The injured claimant has filed the claim petition stating that on 29.04.2019 at about 16.00 hours, he was riding the motor cycle bearing Registration No.TN-25-AR-6534 and proceeding towards Thirumukkoodal-Nelvoy Koot Road, near Aravind Ceramics Company, Kanchipuram District. At that time, a Lorry bearing Registration No.TN-22-DE-8533 driven by its driver, in a rash and negligent manner, hit his motor cycle. Due to the accident, the claimant sustained grievous injuries. The accident had happened only due to rash and negligent manner of the driver of Lorry bearing registration No.TN-22-DE-8533. FIR came to be registered against the driver of the offending vehicle in Crime No.85 of 2019. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking compensation of Rs.60,00,000/-.

3.The Tribunal, on considering the facts and circumstances of the



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case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving of the driver of the lorry.

4. The Tribunal thereafter, proceeded to determine the total compensation at Rs.19,70,000/- under various heads in the following manner:-

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Towards Disability	Rs.16,80,000/-
2.	Towards Pain and Sufferings	Rs. 1,00,000/-
3.	Towards Loss of earning during Treatment	Rs.30,000/-
4.	Towards medical expenses	-Nil-
5.	Towards of Loss of Amenities	Rs.1,00,000/-
6.	Towards Attender Charges	Rs.20,000/-
7.	Towards Transportation Charges	Rs.20,000/-
8.	Towards extra Nourishment	Rs.20,000/-
	Total	Rs.19,70,000/-

5. The Tribunal directed the above compensation to be paid with interest at the rate of 7.5% p.a.



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6. The insurance company aggrieved by the quantum of compensation awarded by the Tribunal has filed the appeal before this Court. Learned counsel for the appellant/Insurance Company would state that the injured suddenly turned his two wheeler without minding the flow of traffic and hence, the accident had occurred. Therefore, the Tribunal ought to have fixed contributory negligence on the part of the injured claimant. He would further state that the award of Rs.16,80,000/- towards disability is on the higher side. He would also state that a sum of Rs.1,00,000/- each, awarded towards loss of amenities and pain and suffering, are excessive. Therefore, he prayed to set aside the award passed by the Tribunal.

7. Learned counsel for the claimant would state that the claimant was working as a labour in M/s. J.K.Crusher, Kancheepuram and was earning a sum of Rs.18,000/- per month. He sustained grievous injuries and his right leg was amputated till above the knee and the medical board had assessed 80% disability and thus, he lost his earning capacity. However, the Tribunal had fixed the notional income as



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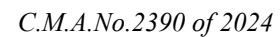
Rs.10,000/- which is very low. Therefore, he would seek to enhance the compensation.

8. Heard the learned counsel for appellant/ insurance company and learned counsel for the respondent/claimant.

9. We have carefully considered the submissions made on either side and perused the materials available on record.

10. On going through the award passed by the Tribunal, it is seen that the Tribunal had taken into consideration, the evidence of P.W.1 and Ex.P1-FIR and fixed the negligence on the part of the driver of the Lorry, which in our opinion, does not warrant any interference.

11. Further, it is a case of amputation. The Tribunal, considering Ex.P2-Discharge summary, Ex.P4-Disability Certificate and considering that the avocation of the injured and the disability caused to the injured on account of the accident and the impact on his career, assessed the disability of the injured as 80%, which is fair and proper and we do not



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13. Further, insofar as the future prospects is concerned, the Tribunal, considering the age of the deceased as 42 years at the time of accident, has rightly added 25% towards future prospects as per the decision in *National Insurance Company Limited v. Pranay Sethi and others* reported in **2017(2) TANMAC 609 (SC)**. Therefore, if Rs.14,000/- is fixed as notional monthly income and adding 25% future prospects,



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the loss of monthly income comes to Rs.17,500/-. Therefore, the total loss of income towards disability is Rs.23,52,000/- (i.e., 17,500 x 12 x 14 x 80/100). Further, after the accident, the claimant had taken continuous medical treatment. Thus, the Tribunal, considering that the injured would not have attended the regular avocation for three months, awarded Rs.30,000/- (Rs.10,000 x 3) towards loss of earning during the period of injury. Now, as the loss of notional monthly income is fixed at Rs.14,000/-, the loss of earning during the period of injury is fixed as $14,000 \times 3 = \text{Rs.}42,000/-$ instead of Rs.30,000/- fixed by the Tribunal. That apart, we are of the considered opinion that the compensation fixed under the other heads are reasonable and it does not require interference of this Court.

14. In the light of the above, the compensation awarded under the various heads by the Tribunal is hereby modified as under:

S. No	Heads	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Towards Disability	16,80,000	23,52,000	Enhanced



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2.	Towards Pain and Sufferings	1,00,000	1,00,000	Confirmed
3.	Towards Loss of earning during Treatment	30,000	42,000	Enhanced
4.	Towards medical expenses	-Nil-	Nil	Confirmed
5.	Towards of Loss of Amenities	1,00,000	1,00,000	Confirmed
6.	Towards Attender Charges	20,000	20,000	Confirmed
7.	Towards Transportation Charges	20,000	20,000	Confirmed
8.	Towards extra Nourishment	20,000	20,000	Confirmed
	Total	Rs.19,70,000/-	Rs.26,54,000/-	Enhanced by Rs.6,84,000/-

15. In the result, this Civil Miscellaneous appeal is dismissed. The award of compensation passed by the Tribunal at Rs.19,70,000/- is hereby enhanced to Rs.26,54,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. Accordingly, the Cross Objection is partly allowed. The appellant-Insurance Company is directed to deposit the award amount now determined by this Court along with interest and costs, less the amount



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already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.3870 of 2019 on the file of the Motor Accident Claims Tribunal, (II Court of Small Causes), Chennai. The other directions issued by the Tribunal and the mode of payment of compensation ordered by the Tribunal remain unaltered. No costs. Consequently, connected miscellaneous petition is closed.

(J.N.B, J.) (R.S.V., J.)
02.12.2024

vsi

To

1. The Motor Accident Claims Tribunal,
(II Court of Small Causes), Chennai.
2. The Section Officer, Vernacular Records,
High Court Madras-104.



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