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Civil Miscellaneous Appeal No.1719 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1719 of 2024

V.Ananthi

... Appellant

Vs.

1. P.Selvandurai

2. United India Insurance Co Ltd.,
Silingi Building, No.134, GreamsRoad,
Chennai 600 006

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the amount awarded in M.C.O.P.No.2438 of 2019 dated 24.11.2022 on the file of Motor Accident Claims Tribunal, (In the IV Court of small Causes), Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For Respondents : M/s.R.Ravichandran for R2

JUDGMENT



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The claimant not being satisfied with the quantum of

compensation has filed this appeal challenging the award passed by the Motor Accident Claims Tribunal (In the IV Court of small Causes), Chennai.

2. The case of the claimant is that on 27.03.2019, she was crossing the road near Nesapakkam signal at about 7.00 a.m and at that point of time, the offending vehicle which was a two wheeler was driven in a rash and negligent manner and it dashed on the claimant. The claimant suffered right leg both bone fracture. The claimant under went treatment as an in patient for nearly 13 days. The medical board assessed the disability at 24%. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3. The Tribunal on considering the facts and circumstances of the 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 on the part of the driver of the two



wheeler.

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4. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.2,21,500/- under various heads as follows :-

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Disability	Rs.1,20,000/-
2.	Future Medical expenses	Rs. 20,000/-
3.	Loss of Income	Rs. 8,000/-
4.	Pain and sufferings	Rs.25,000/-
5.	Transportation expenses	Rs. 5,000/-
6.	Nutrition expenses	Rs.10,000/-
7.	Damages to clothes	Rs. 2,000/-
8.	Attender Charges	Rs. 6,500/-
9.	Loss of Amenities	Rs.25,000/-
	Total	Rs.2,21,500/-

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

5. The claimant not being satisfied with the quantum of



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compensation fixed by the Tribunal has filed this appeal seeking for enhancement of compensation.

6. Heard Mr.K.Varadha Kamaraj, learned counsel for appellant/ claimant and Mr.R..Ravichandran, learned counsel for 2nd respondent / Insurance company.

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

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

9. The main ground that was urged by the learned counsel for the appellant is regarding the compensation fixed under the head of disability at Rs.1,20,000/-. The Tribunal adopted the per percentage method and fixed a sum of Rs.5,000/- per percentage. Considering the fact that the accident had taken place in the year 2019, this Court is inclined to fix a sum of Rs.7,000/- per percentage.



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Accordingly, the compensation under the head of disability is fixed at Rs.1,68,000/- (Rs.7,000/- x 24).

10. The claimant in this case had suffered right leg both bone fracture. Even though, the initial treatment was taken as an in patient for 13 days, the medical records shows that the claimant continued to take treatment for atleast six months. The Tribunal has granted the loss of income only for one month. Therefore, this Court is inclined to enhance the compensation under the head of loss of income to Rs.50,000/-.

11. Considering the nature of injuries and the treatment undergone by the claimant, this Court is inclined to enhance the compensation under the head of Transportation charges, Nutrition expenses and Attendar Charges to Rs.15,000/-, 25,000/- and 10,000/- respectively.

12. The compensation that has been granted under the other heads are reasonable and it does not require the interference of this



13. In the light of the above discussion, this Court modifies the compensation in the following manner:-

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Disability	Rs.1,68,000/-
2.	Future Medical expenses	Rs. 20,000/-
3.	Loss of Income	Rs. 50,000/-
4.	Pain and sufferings	Rs.25,000/-
5.	Transportation expenses	Rs. 15,000/-
6.	Nutrition expenses	Rs.25,000/-
7.	Damages to clothes	Rs. 2,000/-
8.	Attender Charges	Rs. 10,000/-
9.	Loss of Amenities	Rs.25,000/-
	Total	Rs.3,40,000/-

14. The compensation awarded by the Tribunal at Rs.2,21,500/- is enhanced to Rs.3,40,000/-. The 2nd respondent Insurance company is directed to deposit the enhanced compensation, 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



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from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.1,18,500/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay of 295 days as was ordered by this Court in C.M.P.No.1914 of 2024, dated 12.06.2024. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

In the result, the Civil Miscellaneous Appeal is allowed in the above terms. No costs.

19.07.2024

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

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N.ANAND VENKATESH.,J



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To,
Motor Accident Claims Tribunal,
IV Court of small causes, Chennai

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