



C.M.A.No.180 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2024

C O R A M

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

C.M.A.No.180 of 2023

S.Ansi

...Appellant

Vs

1.Madhu Sankar
2.National Insurance Co. Ltd.,
T.P.Cell,
No.46, Moore Street, 34th Floor,
Chennai 600 001.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow this appeal and to enhance the amount awarded in MCOP.No.3907 of 2017 dated 19.01.2022 on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai.



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For Appellant : Mr.K.Varadha Kamaraj

For Respondent : No appearance for R1
Mr.S.Arunkumar for R2

JUDGMENT

The appeal has been filed against the quantum of compensation awarded by the Tribunal vide order dated 19.01.2022 made in MCOP.No.3907 of 2017.

2. The learned counsel for the appellant would submit that on 02.07.2017, when the petitioner was traveling as a pillion rider in the Motor Cycle bearing Registration No.TN-12-J-0128 at CTH Road, Mannurpettai Mugappair Road Junction, a TATA Sumo Gold car bearing Registration No.TN-05-AZ-5413 came in a rash and negligent manner and dashed against the two-wheeler, due to which, the claimant had sustained grievous injuries. Considering all the aspects the Tribunal had awarded the following compensation:



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<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
1	Disability	90,000
2	Medical Expenses	2,61,598
3	Pain and Sufferings	20,000
4	Transportation Expenses	15,000
5	Nutrition Expenses	25,000
6	Damages to Clothes	1,000
7	Attender Charges	3,000
8	Loss of Amenities	20,000
9	Mental Agony	10,000
	Total	4,45,598
	Rounded off	4,46,000

3. He would also submit that the claimant had sustained injuries, viz., Fracture Right Subtrochanter Femur Left ORIF and Implant Exit, which is not permanent in nature and the medical board assessed the disability at 18%. Hence, the Tribunal had applied percentage method and awarded a sum of Rs.5,000/- per percentage as compensation towards disability, which is on lower side. Therefore, he would request this Court to enhance the same by applying multiplier method.



4. Further, he would contend that the compensation awarded by the Tribunal under the heads Pain and Sufferings, Attender Charges, Loss of Amenities and Mental Agony are also on lower side. Hence, he seeks for an enhancement of the same.

5. In reply, the learned counsel for the respondent would vehemently opposed for enhancement of compensation towards disability, since the disability of the claimant is not permanent in nature and it is categorically temporary in nature. However, he would fairly submit that any reasonable amount may be fixed as compensation under the heads Pain and Sufferings, Attender Charges, Loss of Amenities and Mental Agony.

6. Heard the learned counsel for the appellant and the respondent and also perused the materials available on record.

7. In the present case, the disability was assessed by the Medical Board at 90% and as rightly contended by the learned counsel for the respondent, the injuries are temporary in nature, that is why the Tribunal had refused to apply



multiplier method. However, since the accident was occurred in the year 2017, this Court is inclined to award a sum of Rs.6,000/- per percentage instead of Rs.5,000/-. Hence, the compensation towards disability would be calculated as:

$$\text{Rs.6,000/- (amount)} * 18\% \text{ (disability)} = \text{Rs.1,08,000/-}$$

8. Further, since the amount awarded under the heads Pain and Sufferings, Attender Charges, Loss of Amenities and Mental Agony are appears to be on lower side, this Court is inclined to enhance the same. Accordingly, a sum of Rs.50,000/- towards Pain and Sufferings, a sum of Rs.5,000/- towards Attender Charges, a sum of Rs.30,000/- towards Loss of Amenities and a sum of Rs.20,000/- towards Mental Agony. With regard to all the other heads, the compensation awarded by the Tribunal appears to be just and fair and hence, the same stands confirmed.

8. Accordingly, the compensation awarded by the Tribunal is modified as follows:



S.No	Particulars	Compensation awarded by the Tribunal (Rs.)	Compensation awarded by this Court (Rs.)
1	Disability	90,000	1,08,000
2	Medical Expenses	2,61,598	2,61,598
3	Pain and Sufferings	20,000	50,000
4	Transportation Expenses	15,000	15,000
5	Nutrition Expenses	25,000	25,000
6	Damages to Clothes	1,000	1,000
7	Attender Charges	3,000	5,000
8	Loss of Amenities	20,000	30,000
9	Mental Agony	10,000	20,000
	Total	4,45,598	5,15,598
	Rounded off	4,46,000	5,16,000

9. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.5,16,000/-. Accordingly, the award amount stands enhanced from a sum of Rs.4,46,000/- to Rs.5,16,000/-. In all other aspects, the award of the Tribunal stands confirmed.

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the 2nd respondent is directed to deposit a sum of Rs.5,16,000/- along with interest and costs, less the amount already deposited, if any, within a period of 6



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weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.3907 of 2017 on the file of the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai. Further, the claimant shall pay necessary Court fee, if any, on the enhanced compensation. Thereafter, the Tribunal is directed to immediately transfer the entire amount to the bank account of the claimant by way of RTGS, within a period of 3 weeks from the date of deposit and from the date of receipt of the Bank details obtained for the claimant or application for withdrawal from the claimant, whichever is earlier. No costs.

20.02.2024

Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order

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KRISHNAN RAMASAMY,J.

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