



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1689 of 2023

A.Arun

... Appellant

.vs.

The Manager,
Chennai Metro Water Supply and Sewerage Board,
No.1, Pumping Station Road,
Chennai 600 002.

..Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree in MCOP No.3399 of 2016, dated 18.10.2022 on the file of VI Judge, Small Causes Court, (Motor Accidents Claims Tribunal), Chennai.

For Appellant : Ms.A.Subadra
for A.Shanmugaraj

For Respondent : Ms.Jerry V.V.Sundar
for Mr.C.Paranthaman

JUDGMENT

The claimant not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.3399 of 2016, dated 18.10.2022 has filed this appeal seeking for enhancement of compensation.



2.The case of the claimant is that on 28.06.2014, when the was standing near Jeyaraj Theatre, the offending vehicle which was an auto was driven in a rash and negligent manner and it hit the claimant. As a result of which, the claimant sustained a fracture in the left ankle and other multiple injuries. An FIR came to be registered in Crime No.533 of 2014. The Government Doctor who assessed the disability suffered by the claimant, gave a Disability Certificate stating that the claimant suffered 35% partial permanent disability. 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 offending vehicle. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.1,07,000/- under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Transportation Charges	7,000
2.	Extra Nourishment	5,000



S.No	Compensation awarded under the head	Amount (in Rs.)
3.	Attender Charges	10,000
4.	Disability and Loss of Income	45,000
5.	Partial Permanent Disability	30,000
6.	Pain and Sufferings	10,000
	Total	1,07,000

4.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 compensation awarded by the Tribunal has filed the present appeal before this Court seeking for enhancement of compensation.

6.Heard Ms.A.Subadra, learned counsel appearing on behalf of the appellant and Ms.Jerry V.V. Sundar, learned counsel appearing on behalf of the respondent.

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



8. In the considered view of this Court, the compensation that has been fixed by the Tribunal under various heads looks very reasonable. The learned counsel for the appellant submitted that PW2 is none other than the Government Doctor who examined the claimant and also the medical records and had concluded that the claimant suffered 35% partial permanent disability. The learned counsel therefore submitted that the Tribunal ought to have calculated the compensation under the head of disability for the entire 35%.

9. The accident had taken place in the year 2014 and the claim petition was filed in the year 2016. There was no reason as to why the claimant did not subject himself to assessment before the Medical Board, since by the time the claim petition was filed, in all cases of injury the Medical Board was assessing and granting Disability Certificate. For reasons best known to the claimant, the claimant had got the Disability Certificate from PW2. The claimant was not treated by PW2 and the claimant had actually undergone initial treatment before the Royapettah Government Hospital and thereafter, took native treatment. PW2 had assessed the medical records and also the claimant and granted Disability Certificate as if the claimant was suffering from 35% partial permanent disability. The Tribunal has taken note of the fact that PW2 did not treat the claimant and he had merely gone through the records and given the Disability



Certificate. This Court also had the advantage of going through the Disability Certificate which was marked as Ex.P10 in this case. There is nothing wrong in the Tribunal quantifying the disability at 15%, considering the nature of injury sustained by the claimant.

10.The only consideration that is required is as to whether a sum of Rs.3,000/- fixed by the Tribunal per percentage requires enhancement. Considering the fact that the accident had taken place in the year 2014, this Court is inclined to fix a sum of Rs.4000/- per percentage. Accordingly, compensation under the head of disability is fixed at Rs.60,000/- (Rs.4,000 x 15%)

11.This Court is not inclined to interfere with the compensation that was granted by the Tribunal under the other heads.

12.In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:



S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Transportation Charges	7,000
2.	Extra Nourishment	5,000
3.	Attender Charges	10,000
4.	Disability and Loss of Income	60,000
5.	Partial Permanent Disability	30,000
6.	Pain and Sufferings	10,000
	Total	1,22,000

13.The compensation awarded by the tribunal at Rs.1,07,000/- is enhanced to Rs.1,22,000/-. The second respondent insurance company is directed to deposit the enhanced compensation of Rs.1,22,000/-, 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 from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.15,000/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay period of 103 days. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



WEB COPY

14. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

22.07.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
ssr

To

The VI Judge, Small Causes Court,
(Motor Accidents Claims Tribunal), Chennai.



WEB COPY



N. ANAND VENKATESH., J

SSR

CMA No.1689 of 2023

22.07.2024