



CMA No.1111 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1111 of 2023

Babu

.. Appellant

.Vs.

1.Prakash

2.M/s.Iffco Tokio General Insurance Co.,Ltd.,
No.82, Preetham Plaza, 1st Floor
Chandragandhi Nagar, Ponmeni
Bye Pass Road, Madurai 652 010.

2.M/s. G.B. Engineering Enter Private Ltd.,
No.99, D.P.Estate, Thuvagudi
Trichy District-620 015.

3.United India Insurance Co., Ltd.,
1st Floor, No.146-N, Kumar Compex
West Car Street
Tiruchengode Taluk
Namakkal-637 211.

.. Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Decree and Judgment dated 20.07.2022 made in M.C.O.P.No.130 of 2016, on the file of the Motor Accidents Claims Tribunal /Chief Judicial Magistrate Court, Namakkal.



CMA No.1111 of 2023

For Appellant : Mr.T.S.Arthanareeswaran
For Respondents : Ms.V.Vikma
for Mr.J.Michael Visuvasam [R2]
Mrs.R.Sreevidhya [R4]
R1, R3 – Dispense with

JUDGMENT

The claimant not being satisfied with the quantum of compensation fixed by the Tribunal has filed the present appeal challenging the award passed by the Motor Accidents Claims Tribunal / Chief Judicial Magistrate Court, Namakkal, in M.C.O.P.No.130 of 2016, dated 20.7.2022.

2.The case of the claimant is that on 6.10.2014, he was travelling in a Van at Erode-Karur Main Road and when the vehicle approached Solangapalayam at about 2.00 a.m., the driver of the vehicle drove in a rash and negligent manner as a result of which the vehicle hit a tree branch and thereafter dashed on a tanker Lorry which was coming on the opposite direction. As a result of this accident, the claimant sustained the following injuries:

1.Head injury – right Temporal contusionand Temporoparietal
Pneumocephalus and right High parietal Haemorrhagic contusion.



WEB COPY



CMA No.1111 of 2023

2.Bilateral Multiple Facial Fracture.

3.Displaced fracture Shaft of Right Radius (mid 3rd with
subluxation of DRUT) Fracture Neck of 2,3,4 Metatarsal left foot.

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 be a conclusion that the accident had taken place only due to the rash and negligent driving by the Van driver. Having rendered such a finding, the Tribunal fixed the total compensation of Rs.4,23,626/- under various heads as follows:

S.No.	Compensation awarded under the head	Amount (in Rs.)
1.	10% Disability	50,000/-
2	Medical Expenses	3,21,626/-
3.	Pain and suffering	30,000/-
4.	Loss of Income	15,000/-
5.	Nutrition expenses	5,000/-
6.	Damages to clothes	2,000/-
	Total	4,23,626/-



CMA No.1111 of 2023

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

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 Mr.C.Paraneedharan, learned counsel for appellant, Ms.V.Vikma learned counsel for R2 and Mrs.R.Reevidhya, learned counsel for R4.

7.This Court has carefully considered the submissions made on either side and the materials available on record. This Court also carefully went through the award passed by the Tribunal.

8.The learned counsel for the appellant submitted that considering the nature of injuries sustained by the claimant, the Medical Board had assessed the disability only at 10% which is not sustainable. In the considered view of this Court, the Medical Board is an expert body which does not have any axe to grind against the claimant and it is neutral. Therefore, this Court cannot sit upon the opinion of expert body and fix a different percentage of disability. Therefore, the



CMA No.1111 of 2023

percentage of disability fixed by the Medical Board is sustained.

WEB COPY

9.The claimant had underwent treatment as an inpatient in two phases for a total period of 26 days and he underwent multiple operations. In view of the same, this Court is inclined to enhance the compensation under the head of 'pain and suffering' to Rs.50,000/- and for 'extra nourishment' to Rs.25,000/-.

10.The Tribunal has not granted any compensation under the head of attender charges in this case. Considering the fact that the claimant underwent treatment as inpatient for nearly 26 days, this Court is inclined to grant compensation under the head of 'attender charges' at Rs.15,000/-.

11.The Tribunal has not granted any compensation under the head of 'transportation charges'. This Court is inclined to fix a sum of Rs.10,000/- under this head also.

12.Insofar as loss of income is concerned, the Tribunal has taken a notional monthly income at Rs.7,500/- and given the loss of income for only two months. Considering the nature of injuries sustained by the claimant and the treatment undergone by him, this Court is inclined to grant compensation under the head



CMA No.1111 of 2023

'loss of income' at Rs.50,000/- [Rs.10,000 x 5 months].

WEB COPY

13.In the light of the above discussion, the compensation granted by the Tribunal is modified as followed:

Sl. No.	Compensation awarded under the head	Amount awarded by the Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1.	10% Disability	50,000/-	50,000/-
2	Medical Expenses	3,21,626/-	3,21,626/-
3.	Pain and suffering	30,000/-	50,000/-
4.	Loss of Income	15,000/-	50,000/-
5.	Nutrition expenses	5,000/-	25,000/-
6.	Damages to clothes	2,000/-	2,000/-
7.	Attender Charges	--	15,000/-
8.	Transportation Charges	--	10,000/-
	Total	4,23,626/-	5,23,626/-

14.The compensation awarded by the Tribunal at Rs.4,23,626/- is hereby



CMA No.1111 of 2023

enhanced to Rs.5,23,626/-. 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 from the date of receipt of this judgment. 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. This appeal is accordingly allowed in the above terms. No costs.

13.06.2024

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



WEB COPY



CMA No.1111 of 2023

N. ANAND VENKATESH., J

KP

To

- 1.M/s.Iffco Tokio General Insurance Co.,Ltd.,
No.82, Preetham Plaza, 1st Floor
Chandragandhi Nagar, Ponmeni
Bye Pass Road, Madurai 652 010.
- 2.United India Insurance Co., Ltd.,
1st Floor, No.146-N, Kumar Complex
West Car Street
Tiruchengode Taluk
Namakkal-637 211.
- 3.Motor Accidents Claims Tribunal /
Chief Judicial Magistrate Court
Namakkal.

CMA No.1111 of 2023

13.06.2024