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CMA.No.2202 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.No.2202 of 2024

A.Kannadhasan

... Appellant

VS.

1. S.Ismail

2 The Reliance General Insurance Co. Limited,
No.6, Reliance House,
6th Floor,
Haddows Road,
Nungambakkam,
Chennai 600 006.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 21.06.2023 in M.C.O.P.3700/2017 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Cuddalore.

For Appellant : Mr.N.Palanikumar

For R2 : Mrs.R.Sreevidhya

J U D G M E N T

The appellant is the claimant in M.C.O.P.3700/2017 on the file of the Motor Accident Claims Tribunal, Cuddalore. He filed the claim petition under Section 166(1) of the Motor Vehicles Act, 1988 seeking compensation of Rs.30,00,000/- for the injuries sustained by him in a road



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accident which happened on 14.08.2017.

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2. The brief case of the appellant / claimant is as follows :

On 14.08.2017, the claimant was walking along Kondur main road. When he was nearing Kondur bus stop at about 8.15 p.m., a motor cycle bearing Registration number TN-31-AH-2129 belonging to the first respondent came in a rash and negligent manner and hit the claimant, as a result of which, he sustained injuries all over his body.

3. According to the claimant, the rash and negligent driving of the driver of the two wheeler bearing Registration number TN-31-AH-2129 was the cause of the accident and that since the said vehicle was insured with the second respondent, the Reliance General Insurance Company Limited, the owner and the insurer are jointly and severally liable to pay compensation to him.

4. In the Tribunal, the owner of the vehicle remained absent and was set *exparte*. The second respondent resisted the claim petition on all the grounds available to the insurer under Section 170 of the Motor



Vehicles Act.

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5. The Tribunal, after analysing the evidence on record, fastened negligence on the part of the driver of the two wheeler bearing Registration number TN-31-AH-2129. Since the rider of the two wheeler did not have a valid driving license, the Tribunal directed the second respondent, Insurance company to pay compensation of Rs.5,34,075/- together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation, in the first instance and then recover the same from the owner of the vehicle, vide, its orders dated 21.06.2023.

6. Aggrieved over the quantum of compensation awarded by the Tribunal, the appellant / claimant has filed the present appeal under Section 173 of the Motor Vehicles Act.

7. Heard Mr.N.Palanikumar, learned counsel appearing for the appellant and Mrs.R.Sreevidhya, learned counsel for the second respondent.

8. Mr.N.Palanikumar, learned counsel appearing for the



appellant contended that though the Medical Board attached to the Government Hospital, Cuddalore had assessed 78% partial permanent disability, the Tribunal has reduced it as 58% based on the evidence of Dr.Natarajan (R.W.1). His contention is that Dr.Natarajan (R.W.1) is not the doctor who gave treatment to the claimant and in the circumstances, the Tribunal was wrong in reducing the percentage of disability assessed by the competent Medical Board. He therefore prayed for enhancement of the compensation.

9. Per contra Mrs.R.Sreevidhya, learned counsel appearing for the second respondent contended that the Tribunal had rightly reduced the percentage of disability based on the evidence of Dr.Natarajan (R.W.1) and awarded just compensation and therefore, the same need not be disturbed.

10. A perusal of the records shows that the Medical Board assessed the partial permanent disability as 78%. A perusal of the discharge summary shows that the claimant has sustained the following injuries:



"Hemorrhagic contusions, extra dural and subarachnoid hemorrhages as detailed.

Extensive craniofacial fractures as detailed.

No trauma related abnormality in cervical spine."

In the circumstances, this Court is of the opinion that fixing 78% of partial permanent disability would meet the ends of justice. Since the accident took place in the year 2017, a sum of Rs.7,000/- is fixed per percentage of partial permanent disability. The following tabular column shows the award passed by the Tribunal and the modified compensation awarded by this Court :

S.No.	Heads	Amount awarded by the Tribunal	Award of this Court
1.	Partial Permanent Disability	Rs.2,90,000/- (58X5,000)	Rs.5,46,000/- (78X7,000)
2.	Pain and Sufferings	Rs.40,000/-	Rs.40,000/-
3.	Medical expenses	Rs.1,42,075/-	Rs.1,42,075/-
4.	Extra nourishment	Rs.10,000/-	Rs.10,000/-
5.	Damage to clothes	Rs.2,000/-	Rs.2,000/-
6.	Transportation charges	Rs.10,000/-	Rs.10,000/-
7.	Attender charges	Rs.40,000/-	Rs.10,000/-
	Total	Rs.5,34,075/-	Rs.7,60,075/-

11. Thus, the compensation awarded by the Tribunal is enhanced from Rs.5,34,075/- to Rs.7,60,075/- which would carry interest



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at the rate of 7.5% per annum.

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12. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed. No costs.
- ii. The compensation awarded by the Tribunal is enhanced from Rs.5,34,075/- to Rs.7,60,075/-.
- iii. The appellant / claimant is directed to pay court fee for the enhanced compensation amount, if any, within a period of four weeks from the date of this order and the Registry is directed to draft the decree only after receipt of the Court fee.
- iv. The second respondent, Reliance General Insurance Company Limited is directed to deposit the enhanced award amount i.e. Rs.7,60,075/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of a copy of this order / uploading of this order to the credit of M.C.O.P.3700/2017 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Cuddalore in the first instance and then recover the same from the owner of the vehicle.



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- v. On such deposit being made the appellant, claimant is permitted to withdraw the same with accrued interest and costs, after following due process of law.
- vi. The appellant/claimant is not entitled to claim any interest for the period of delay of 156 days in filing this appeal.

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Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes / No
vum

To

- 1.The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate, Cuddalore.
- 2.The Section Officer, VR Section,
Madras High Court, Chennai.

R.HEMALATHA, J.

vum



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