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Civil Miscellaneous Appeal No.1592 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1592 of 2024

V.Ramesh

... Appellant

Vs.

1. Augustin

2. United India Insurance Co., Limited,
Motor Third Party Hubb, 4th Floor,
Silinghi Buildings, 134, Greams Road,
Thousand Lights, Chennai 600 006

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree dated 20.07.2023 made in MACT OP No.3075 of 2013 on the file of the Special Court I (Motor Accident Claims Tribunal), Small Causes Court, Chennai.

For Appellant : Mr.M.Mahendran

For Respondents : M/s.R.Rathna Thara for
2nd respondent



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JUDGMENT

The claimants not being satisfied with the quantum of compensation has filed this appeal challenging the award passed by the Special Court I (Motor Accident Claims Tribunal), Small Causes Court, Chennai, in MACT OP No.3075 of 2013 dated 20.07.2023.

2. The case of the claimant is that on 15.02.2013, he was riding a cycle along Velacherry main road and he was crossing in a pedestrian near a Indian Oil petrol bunk at about 19.40 hours 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 cycle of the claimant. As a result of which, the claimant sustained head injury and also fracture in the frontal bone. The claimant underwent treatment as an in patient for nearly 17 days in the Government General Hospital. During this period, he also underwent operations. The medical board assessed the permanent disability at 65% and there was a specific finding to the effect that the claimant suffered neuropsychiatric problem. It is under these circumstances, the claim petition came to be filed before this Court



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 rider of the two wheeler. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.8,69,000/- under various heads as follows :-

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Disability	Rs.7,99,680/-
2.	Pain and sufferings	Rs. 30,000/-
3.	Transportation	Rs. 4,000/-
4.	Extra Nourishment	Rs. 10,000/-
5.	Attendar charges	Rs. 5,100/-
6.	Loss of amenities	Rs.20,000/-
	Total	Rs.8,68,780/-

rounded off to Rs.8,69,000/-



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

4. The claimant not being satisfied with the quantum of compensation fixed by the Tribunal has filed this appeal seeking for enhancement of compensation.

5. Heard Mr.M.Mahendran, learned counsel for appellant/claimant and M/s.R.Rathna Thara, learned counsel for 2nd respondent/Insurance company.

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

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

8. The learned counsel for the appellant submitted that the



claimant suffered from neuropsychiatric problem as a consequence of the head injury sustained by him during the accident. The learned counsel further submitted that the claimant was working as a molding machine operator and due to the after effects, the claimant has virtually lost his avocation. Therefore, it was contended that the Tribunal ought not to have reduced the disability to 35%, when the Medical board had assessed the permanent disability at 65%. The learned counsel for the Appellant further submitted that the compensation that has been fixed under the other heads are also on the lower side.

9. Per contra, the learned counsel appearing for the Insurance company submitted that the claimant was present before the Court in order to give evidence, when he was examined as PW1. Therefore, the Tribunal had an opportunity to assess the mental status of the claimant. The Tribunal had also considered the disability certificate that was given by the Medical board, which was marked as Ex.C1. Ultimately, the Tribunal came to a conclusion that the whole body disability can be taken as 35% and had rightly applied the multiplier method by taking into consideration the functional disability as 35%. The learned counsel



further submitted that the compensation that has been fixed under the other heads are also reasonable and it does not require the interference of this Court.

10. In the instant case, the claimant was aged about 33 years at the time of the accident. There is no dispute with regard to the fact that the claimant sustained head injury since he suffered left temporal bone fracture and right frontal contusion. The disability suffered by the claimant was assessed by the Medical Board as 65% permanent disability. It was mentioned in the disability certificate that the claimant is suffering from neuropsychiatric problem. This would mean that the claimant will have forgetfulness, throwing tantrums, seeking for the help of others even for doing his routine activities, disoriented at times etc., If such mental problems are faced by the claimant, it is quite natural that he will not be engaged in the avocation as a machine operator. The disability suffered by the claimant does not necessarily mean that he will be in an abnormal state of affairs right through the day. Therefore, just because the claimant came before the Court and was examined as PW1, that does not mean that the claimant is in perfect mental condition. Psychiatric



problem normally results in occasional disruption of the mental faculty.

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11. In view of the above, there is no reason to reduce the functional disability to 35% and this Court is inclined to sustain 65% as functional disability in this case.

12. In the light of the above discussion, the compensation under the head of disability is calculated as follows :-

$$=Rs,1,42,800 \times 16 \times 65/100$$

$$= Rs.14,85,120/-$$

13. The claimant underwent treatment as an in patient for nearly 17 days and he also underwent a couple of operations. Therefore, this Court is inclined to enhance the compensation under the head of pain and sufferings, transportation expenses, Extra nourishment and Attendar charges to Rs.50,000/-, Rs.10,000/-, Rs.25,000/- and Rs.15,000/- respectively.

14. In the light of the above discussion, this Court modifies the



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compensation in the following manner:-

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<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Disability	Rs.14,85,120/-
2.	Pain and sufferings	Rs. 50,000/-
3.	Transportation	Rs. 10,000/-
4.	Extra Nourishment	Rs. 25,000/-
5.	Attendar charges	Rs. 15,000/-
6.	Loss of amenities	Rs.20,000/-
	Total	Rs.16,05,120/-

15. The compensation awarded by the Tribunal at Rs.8,68,780/- is enhanced to Rs.16,05,120/-. The 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 of Rs.7,36,340/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay of 111 days as was ordered by this Court in C.M.P.No.6763 of 2024, dated 13.06.2024. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid



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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.

11.07.2024

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,
Special Court I (Motor Accident Claims Tribunal), Small Causes Court,
Chennai.

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