



C.M.A.No.3277 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Civil Miscellaneous Appeal No.3277 of 2024

A.Kareem

... Appellant

Vs.

1.S.Nagarajan

2.The Divisional Manager
National Insurance Company Limited
Officers Line, Opposite to Lakshmi Theater,
Vellore Town.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.303 of 2016 dated 13.12.2017 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Vellore.

For Appellant : M/s.R.Nalliyappan

For Respondents : Mr.D.Baskaran for R2.
R1 – Notice dispensed with



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JUDGMENT

Being not satisfied with the quantum of compensation awarded by the Tribunal, the appellant/claimant has filed the present appeal before this Court.

2. The case of the claimant is that on 30.06.2013, when he was traveling as a pillion rider in the two wheeler which was driven by Shanaullah and while proceeding towards Ariyalur on Vellore Thorappadi road and while nearing the Rajiv Gandhi Nagar, a tractor bearing Reg.No.TN23-Z-8616 driven by its driver came from opposite side dashed against the claimant's vehicle, as a result of which, the claimant sustained grievous injury in his right leg.

3. The claimant underwent treatment as an in patient in Government Vellore Medical College and Hospital, Vellore from 30.06.2013 to 09.07.2013 and thereafter, taken treatment in a private hospital. The medical board assessed 35% disability, considering the nature of injury sustained by the claimant. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.



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4. The Tribunal after 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 Tractor and awarded a sum of Rs.1,13,000/- under various heads with interest at the rate of 7.5% per annum.

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

6. The learned counsel for the appellant submitted that the injured was aged about 45 years at the time of the accident and he was doing business by purchasing old plastic goods and also doing catering work. Due to the accident, he is not able to continue his avocation. The medical board assessed the disability at 35% whereas the Tribunal has awarded only a sum of Rs.70,000/- towards disability which is very meager and also the Tribunal has awarded very less compensation in



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respect of pain and sufferings, loss of income during the treatment period, transportation, extra nourishment and attendant charges.

7. The learned counsel appearing for the insurance company submitted that after considering the evidences and materials, the Tribunal has awarded compensation, which is perfectly in order and the same need not require any interference.

8. Heard the learned counsel for appellant/claimant and the learned counsel for 2nd respondent.

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

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

11. The facts in the present case are not in dispute and the manner of the accident is also not in dispute only enhancement of compensation, the present appeal has been filed.



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12. It is the main ground of the appellant that the Tribunal has awarded very meager amount in respect of disability, pain and sufferings, loss of income during the treatment period, transportation, extra nourishment and attendant charges. The appellant is 45 years old at the time of accident, and he was doing business by purchasing old plastic goods and also doing catering work and was earning a sum of Rs.15,000/- per month. Even then the Tribunal has awarded a sum of Rs.2,000/- per percentage for the disability which is very meager and the amount awarded under the heads of pain and sufferings, loss of income during the treatment period, transportation, extra nourishment and attendant charges are seems to be meager and require interference by this Court. Considering the nature of injuries and the date of the accident, this Court is inclined to enhance per percentage for the disability from Rs.2,000/- to Rs.3,000/- and that disability would be arrived at Rs.1,05,000/- as he could not continue his avocation as Catering provider and in doing old plastic goods business and the Court below has awarded a sum of Rs.18,000/- for loss of income during the treatment period is very meager and the same is enhanced to Rs.(3x10,000) Rs.30,000/-. Taking into account the injuries sustained, period of treatment undergone



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as also sufferings faced by the appellant due to the accident it would be appropriate to enhance the compensation awarded under the heads, pain and sufferings, loss of income, transportation, extra nourishment and attender charges.

13. Accordingly, the award passed by the Tribunal stands modified as follows:

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Modified Award Amount (Rs.)</i>
Disability	70,000/-	1,05,000/-
Pain and Sufferings	10,000/-	30,000/-
Loss of income	18,000/-	30,000/-
Transportation	5,000/-	10,000/-
Extra nourishment	5,000/-	20,000/-
Attendant charges	5,000/-	10,000/-
Total	1,13,000/-	2,05,000/-

14. The compensation of Rs.1,13,000/- awarded by the Tribunal is enhanced to Rs.2,05,000/- (Rupees two lakh five thousand only). The second respondent Insurance company is directed to deposit the entire compensation, less the amount already deposited, together with interest



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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.

15. In the result, the Civil Miscellaneous Appeal is partly allowed.

No costs.

02.12.2024

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

msv

To,
The Motor Accidents Claims Tribunal
(Chief Judicial Magistrate), Vellore.



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M.DHANDAPANI.,J

msv

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