



Civil Miscellaneous Appeal No.1437 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1437 of 2024

E.Gajalakshmi
D/o.Ethiraj

... Appellant

Vs.

1.PRR Travels

Flat No.B25, Sipcot Industrial Growth Center,
Oragadam, Sriperumbudur,
Kanchipuram District - 602 105.

2.United India Insurance Company Ltd.,

Motor Third Party Claims Hub,
Silingi Building, 4th Floor,
No.134, Greams Road,
Chennai - 600 006.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 16.09.2022 made in M.C.O.P.No.4860 of 2018 on the file of Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai.

For Appellant : Mr.V.Tamilamudhu

For Respondents : Mr.R.Rajesh [R2]

JUDGMENT



WEB COPY The appellant/claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai, has filed this appeal against the award passed in M.C.O.P.No.4860 of 2018, dated 16.09.2022.

2. The case of the claimant is that on 28.07.2016, he was travelling as a passenger in a bus from Pall Nellur to Sriperumbudur and at about 17.00 hours, a tipper lorry, which was coming from the opposite direction was driven in a rash and negligent manner and it dashed on the bus. The claimant sustained injury and was diagnosed with right knee lateral meniscal tear and chondral damage. The claimant underwent treatment as an inpatient for nearly four days. The disability was assessed at 30% by the Medical Board. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking 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 due to the rash and negligent driving on the part of the offending vehicle. Having rendered such a



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finding, the Tribunal proceeded to determine the compensation and awarded total compensation of Rs.1,60,275/- under various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Disability	65,000/-
2.	Loss of amenities	25,000/-
3.	Loss of income	20,000/-
4.	Pain and suffering	20,000/-
5.	Mental Agony	10,000/-
6.	Nutrition expenses	10,000/-
7.	Transportation expenses	5,000/-
8.	Medical expenses	3,275/-
9.	Damages to clothes	2,000/-
	Total	1,60,275/-
	Rounded off to	1,60,300/-

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

4. The claimant, not being satisfied with the compensation awarded



by the Tribunal, has approached this Court seeking for enhancement of compensation.

5. Heard Mr.V.Tamilamudhu, learned counsel for appellant/claimant and Mr.R.Rajesh, learned counsel for second respondent insurance company.

6. This Court 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. Learned counsel for appellant submitted that the claimant, who was a machine operator, had suffered functional disability due to the injuries sustained by him. The claimant in this case was diagnosed with right knee lateral meniscal tear and chondral damage. This injury

certainly will not result in functional disability. Therefore, there is no



reason for applying multiplier method.

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9. The Tribunal had applied per percentage method and granted Rs.5,000/- per percentage. Considering the fact that the accident had taken place on 28.07.2016, this Court is inclined to fix Rs.7,000/- per percentage. Accordingly, the compensation under the head 'disability' is fixed at Rs.91,000 [7000 x 13].

10. The Tribunal had granted a sum of Rs.20,000/- under the head 'loss of income'. The accident had taken place in the year 2016 and the claimant was aged about 24 years and he was working as a machine operator. The claimant could have been out of action at least for three months. This Court is inclined to fix a sum of Rs.15,000/- as monthly notional income of the claimant. Thus, the compensation under the head 'loss of income' would be Rs.45,000/- [15000 *3].

11. The compensation awarded under the other heads are reasonable and it does not require the interference of this Court.

12. 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 awarded by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	Disability	65,000/-	91,000/-
2.	Loss of amenities	25,000/-	25,000/-
3.	Loss of income	20,000/-	45,000/-
4.	Pain and suffering	20,000/-	20,000/-
5.	Mental Agony	10,000/-	10,000/-
6.	Nutrition expenses	10,000/-	10,000/-
7.	Transportation expenses	5,000/-	5,000/-
8.	Medical expenses	3,275/-	3,275/-
9.	Damages to clothes	2,000/-	2,000/-
	Total	1,60,275/-	2,11,275/-
	Rounded off to	1,60,300/-	2,11,300/-

13. The compensation awarded by the Tribunal at Rs.1,60,300/- is enhanced to Rs.2,11,300/-. The second 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 six 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



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payment of compensation remains unaltered.

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

26.06.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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To

The Motor Accident Claims Tribunal,
IV Court of Small Causes,
Chennai.

N.ANAND VENKATESH, J.

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