



Civil Miscellaneous Appeal No.1561 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.1561 of 2024

P.Govindaraj
S/o.Perumal

... Appellant

Vs.

1.The Managing Director,
Parveen Travels (P) Ltd.,
No.115/6, Sandavellore Village,
Shunguvarchathiram,
Sriperumpudur Tk, Tamilnadu - 602 105.

2.The Divisional Manager,
The New India Assurance Co. Ltd.,
Divisional Office,
Macmillan House, 2nd Floor,
B Block, 21, Patullos Road,
Chennai - 600 002.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 14.02.2020 made in M.C.O.P.No.213 of 2019 on the file of Motor Accident Claims Tribunal, Special Sub Judge, Krishnagiri.



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Civil Miscellaneous Appeal No.1561 of 2024

For Appellants : Mr.S.P.Yuaraj

For Respondents : Ms.R.Rathna Thara [R2]

JUDGMENT

The appellant/claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, Special Sub Judge, Krishnagiri, in M.C.O.P.No.213 of 2019, dated 14.02.2020, has filed this appeal.

2. The case of the claimant is that on 03.02.2017, he was travelling in a two wheeler as a pillion rider and they were going at the Coimbatore Gandhipuram New Siddha Pudhur Chinnasamy Naidu road. At about 10.30 p.m., the offending vehicle, a Omni bus, came from the opposite direction in a rash and negligent manner and it hit the two wheeler, as a result of which the claimant was thrown out of the vehicle and he sustained grievous injuries in the head as well as in the left eye. The claimant was taking treatment as an inpatient for nearly 16 days. The Medical Board has assessed the disability at 50%. It is under these circumstances, the claim petition came to be filed before the Tribunal.



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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 driver of the offending vehicle. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.3,63,812/- under various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	50% disability	1,50,000/-
2.	Medical expenses	82,312/-
3.	Nutrition and attender charges	15,000/-
4.	Transport expenses	10,000/-
5.	Pain and suffering	40,000/-
6.	Social amenities	40,000/-
7.	Loss of earnings	25,500/-
8.	Damage to clothes and articles	1,000/-
	Total	3,63,812/-

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



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

5. Heard Mr.S.P.Yuaraj, learned counsel for appellant/claimant and Ms.R.Rathna Thara, 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. The Tribunal had adopted per percentage method and had fixed a sum of Rs.3,000/- per percentage. The accident had taken place in the year 2017. Considering the judgment of the Division Bench of this Court in ***C.M.A.No.3334 of 2021, dated 15.06.2022 [Future General India Insurance Company Limited v. Manivannan and others]***, this Court is



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inclined to fix a sum of Rs.7,000/- per percentage. Accordingly, the compensation under the head 'disability' is fixed at Rs.3,50,000/- (7000 * 50).

9. The claimant had undergone treatment as an inpatient for nearly 16 days and the Tribunal has awarded a sum of Rs.15,000/- under a consolidated head 'extra nourishment and attender charges'. The same requires modification and a sum of Rs.15,000/- each is awarded under the heads 'extra nourishment' and 'attender charges'. The Tribunal has awarded Rs.25,000/- under head 'loss of income'. Considering the fact that the accident had taken place in the year 2017, this Court is inclined to fix the notional monthly income at Rs.13,000/-. Accordingly, the compensation under the head 'loss of income' is enhanced to Rs.39,000/- [13000 * 3].

10. The compensation awarded under the other heads is justified and does require the interference of this Court.



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11. For the foregoing reasons, the compensation awarded by the Tribunal is modified as follows:

<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.	50% disability	1,50,000/-	3,50,000/-
2.	Medical expenses	82,312/-	82,312/-
3.	Extra nourishment and attender charges	15,000/-	-
4.	Transport expenses	10,000/-	10,000/-
5.	Pain and suffering	40,000/-	40,000/-
6.	Social amenities	40,000/-	40,000/-
7.	Loss of earnings	25,500/-	39,000/-
8.	Damage to clothes and articles	1,000/-	1,000/-
9.	Extra nourishment	-	15,000/-
10.	Attender charges	-	15,000/-
	Total	3,63,812/-	5,92,312/-
	Rounded off to	-	5,93,000/-

12. The compensation awarded by the Tribunal at Rs.3,63,812/- is enhanced to Rs.5,93,000/-. The second respondent insurance company is directed to deposit the compensation awarded by this Court, 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 (6)



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weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.2,29,188/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay of 1380 days as was ordered by this Court in C.M.P.No.8212 of 2024 in C.M.A.Sr.No.36470 of 2024 dated 13.06.2024. 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.

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

11.07.2024

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

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To

The Motor Accident Claims Tribunal,
Special Sub Judge,
Krishnagiri.



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N.ANAND VENKATESH, J.

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