



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.No.826 of 2023

V.Kanniyammal

.. Appellant

Vs.

1. N.Siva Shankaran

2. The New India Assurance Company Ltd.,
No.232, NSC Bose Road,
LIC Building, 6th Floor,
Chennai- 600 001.

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 13.10.2022 made in M.C.O.P.No.7105 of 2016 by the learned Motor Accident Claims Tribunal, III Court of Small Causes, Chennai.

For Appellant : Mr.N.S.Suganthan
for Mr.V.Tamilamudhu

For Respondents : Notice not ready (R1)
Mr.R.Rajesh (R2)



JUDGMENT

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 13.10.2022. made in M.C.O.P.No.7105 of 2016 on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai.

2.The appellant is the claimant in M.C.O.P.No.7105 of 2016 on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai. He filed the above said claim petition, claiming a sum of Rs.50,00,000/- as compensation on account of the injuries sustained by him in an accident that took place on 10.08.2016.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the rider of the Splender Pro motor cycle bearing Registration No.TN-25-AS-1354, belonging to the first respondent herein and directed the 2nd respondent-Insurance Company to pay a sum of Rs.9,33,800/- as compensation to the appellant.



4. Not being satisfied with the amounts awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5. The learned counsel appearing for the appellant contended that due to the aforesaid accident, the appellant sustained traumatic brain injury and multiple injuries all over the body and the Claims Tribunal without considering the same has awarded meager compensation. He further submitted that without considering Ex.P4- treatment records, the Tribunal has awarded only a sum of Rs.20,000/- towards pain and suffering. He has also submitted that though the Claimant was taking tuitions and earning a sum of Rs.15,000/- per month, the Tribunal has fixed the notional income only at Rs.10,000/- while determining the compensation towards loss of income which is very low. The Tribunal ought to have adopted the multiplier method while determining the compensation towards disability. He further submitted that the Tribunal has failed to take note of medical bills filed to an extent of Rs.1,37,320/- while awarding compensation towards medical expenses and therefore same may be added along with a sum of Rs.6,45,382/- awarded towards medical bills. He further submitted that the compensation awarded towards other heads are also very low and hence prayed for enhancement of



compensation.

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6. The learned counsel appearing for the 2nd respondent-Insurance Company submitted that since no proof was filed with respect to the income of the injured, the Claims Tribunal has rightly fixed the notional income of the injured @ Rs.10,000/- per month. As far as medical expenses are concerned, he fairly submitted that since the Tribunal has committed mistake by omitting to consider a sum of Rs.1,37,320/- incurred towards medical expenses, the same may be considered. He further submitted that the Claims Tribunal after considering oral and documentary evidence has rightly awarded compensation under various heads and therefore the same does not warrant any interference.

7. Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the 2nd respondent-Insurance Company and perused the entire materials on record.

8. It is the case of the appellant that at the time of accident, the injured was 25 years and was earning a sum of Rs.15,000/- per month, but the Tribunal has fixed the monthly income of the appellant at Rs.10,000/- which



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in the opinion of this Court is very low. The accident took place in the year 21.08.2016. The cost of living has increased enormously and salary of even unskilled workers are substantially high and therefore this Court is of the view that a sum of Rs.12,000/- can be fixed as monthly income of the injured and by considering the age of the Claimant at the time of accident, this Court is inclined to adopt multiplier method while determining the compensation towards loss of income. Accordingly, a sum of Rs.12,000/- per month is fixed as monthly income of the deceased and by adding future prospects @ 40% and by applying multiplier 18 as per the decision of Hon'ble Supreme Court in the case of **SARLA VERMA AND OTHERS VS. DELHI TRANSPORT CORPORATION AND ANOTHER** reported in (2009) 4 MLJ 997, and by taking disability @30% the compensation towards loss of income comes to **Rs.10,88,640/- (12,000+4800x12x18x30/100)**. Loss of earnings also stand increased from Rs.20,000/- to Rs.30,000/-.

9. Since the Tribunal has failed to take note of the medical bills filed to an extent of Rs.1,37,320/- the same is added with the medical expenses already granted and thus a sum of Rs.7,82,702/- is granted towards medical expenses. Considering the nature of injuries sustained by the Claimant, this



Court is inclined to award a sum of Rs.50,000/- towards future medical expenses.

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10. The amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability	2,25,000/-	10,88,640/-	Enhanced
2.	Pain and suffering	20,000/-	20,000/-	Confirmed
3.	Transportation	4,000/-	2,000/-	Confirmed
4.	Medical Expenses	6,45,382/-	7,82,702/-	Enhanced
5.	Extra Nourishment	10,000/-	10,000/-	Confirmed
6.	Attender expenses	8,400/-	8,400/-	Confirmed
7.	Damage to clothes	1,000/-	1,000/-	Confirmed
8.	Loss of earnings	20,000/-	30,000/-	Enhanced
10	Future Medical Expenses	50,000/-	50,000/-	Granted
	Total	Rs.9,33,800/-	Rs.19,94,742/-	Enhanced by Rs.10,60,942/-

11. In the result, this Civil Miscellaneous Appeal is partly allowed and



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the compensation awarded by the Tribunal at Rs.9,33,800/- is hereby enhanced to Rs.19,92,742/- together with interest at the rate of 7.5% per annum from the date of accident till the date of deposit. The 2nd respondent- Insurance Company is directed to deposit the award amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of **six weeks** from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.7105 of 2016 on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai. On such deposit being made, the Tribunal is directed to transfer the Award amount directly to the Bank account of the Appellant/Claimant through RTGS, within a period of **three weeks** thereafter. The claimant is directed to pay necessary Court fee, if any on the enhanced compensation. However, it is made clear that if there is any delay in filing the C.M.A. and in case of any earlier order by this Court, depriving interest for the period of delay in question, the interest portion for that period should be excluded for the purpose of granting interest. No costs.

11.01.2024

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Index : Yes / No
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To

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1. The New India Assurance Company Ltd.,
No.232, NSC Bose Road,
LIC Building, 6th Floor,
Chennai- 600 001.
2. The Motor Accident Claims Tribunal,
III Court of Small Causes, Chennai.
3. The Section Officer,
VR Section,
High Court,
Madras.



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KRISHNAN RAMASAMY, J.

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