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Civil Miscellaneous Appeal No.1273 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1273 of 2024

S.Pradeep (minor)
S/o.Selvakumar
(represented by his mother and
natural guardian S.Nathiya)

... Appellant

Vs.

1.M.Rashid
S/o.Mohammed Ibrahim

2.The Manager,
The New India Assurance Co. Ltd.,
No.45, 2nd Line Beach, Moores Street,
Chennai - 600 001.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 25.09.2023 made in M.C.O.P.No.6012 of 2013 on the file of Motor Accident Claims Tribunal, II Court of Small Causes, Chennai.

For Appellant : Ms.Ramya V.Rao

For Respondents : Mr.J.Chandran [R2]

JUDGMENT



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The appellant/claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai, in M.C.O.P.No.6012 of 2013, dated 25.09.2023, has filed this appeal.

2. The case of the claimant is that the claimant was travelling in a two wheeler as a pillion rider on 16.06.2013 at Kamarajar Salai and at about 22.30 hours, the offending vehicle, a two wheeler, dashed on the vehicle in which the claimant was travelling. The claimant, who was aged about five years, was thrown out of the vehicle and he sustained crush avvision injury with SL left thumb, friction burns left forearm, chest, ABD Wall and multiple injuries all over the body. The claimant also underwent treatment as an inpatient initially from 17.06.2013 to 15.07.2013 at Government Stanley Hospital and thereafter, again from 03.07.2015 to 07.07.2015 at the Tamil Nadu Government Multi Super Speciality Hospital. The claimant also suffered serious burn injuries, which resulted in disfiguration in some portions of the body. The Medical Board assessed the disability at 40%. 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



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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.5,15,450/- under various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Disability	4,00,000/-
2.	Pain and sufferings	50,000/-
3.	Loss of earning during treatment	Nil
4.	Loss of amenities	50,000/-
5.	Attender charges	5,000/-
6.	Transportation charges	5,000/-
7.	Extra nourishment	5,000/-
8.	Medical expenses	450/-
	Total	5,15,450/-
	Rounded off to	5,15,500/-

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

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

5. Heard Ms.Ramya V.Rao, learned counsel for appellant/claimant and Mr.J.Chandran, learned counsel for second respondent insurance company.



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

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

8. In the considered view of this Court, the claimant, who was a five year old boy, has sustained very serious injuries, which also include burn injuries and disfiguration. That apart, the small boy had to undergo treatment for a very long time.

9. Considering the nature of injuries sustained by the claimant, this Court is inclined to enhance the compensation under the heads 'pain and sufferings', 'attender charges', 'transportation charges' and 'extra nourishment' to Rs.1,00,000/-, Rs.25,000/-, Rs.20,000/- and Rs.25,000/- respectively. This Court is also inclined to grant a sum of Rs.45,000/- towards disfiguration.

10. The compensation awarded under other heads is justified and



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.	Disability	4,00,000/-	4,00,000/-
2.	Pain and sufferings	50,000/-	1,00,000/-
3.	Loss of earning during treatment	Nil	Nil
4.	Loss of amenities	50,000/-	50,000/-
5.	Attender charges	5,000/-	25,000/-
6.	Transportation charges	5,000/-	20,000/-
7.	Extra nourishment	5,000/-	25,000/-
8.	Medical expenses	450/-	450/-
9.	Disfiguration	-	45,000/-
	Total	5,15,450/-	6,65,450/-
	Rounded off to	5,15,500/-	6,65,500/-

N.ANAND VENKATESH, J.

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12. The compensation awarded by the Tribunal at Rs.5,15,500/- is enhanced to Rs.6,65,500/-. The second respondent insurance company is directed to deposit the compensation awarded by this Court, less the



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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) 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.

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

25.07.2024

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

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To

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

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