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Civil Miscellaneous Appeal No.1304 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1304 of 2023

P.Shenbagam

... Appellant

Vs.

1. Panneer Selvam

2. United India Insurance Company Limited,
Regional Office, TP Claims Hub,
Silingi Buildings, New No.134, Old No.40 -42
Greens Road, Chennai 600 006

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and Decree in M.C.O.P.No.112 of 2020 dated 11.10.2022 on the file of Motor Accident Claims Tribunal, II Court of small causes, Chennai.

For Appellant : Mr.R.Mohan Babu

For Respondents : Mr.I.Malar for R2



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JUDGMENT

The claimant not being satisfied with the quantum of compensation fixed by the Tribunal has filed the present appeal against the award passed in M.C.O.P.No.112 of 2020 dated 11.10.2022 by the file of Motor Accident Claims Tribunal, II Court of small causes, Chennai.

2. The case of the claimant is that on 19.10.2019, she was travelling as a pillion rider in a two wheeler from Minjur to Arikapedu and at about 20.00 hours near Avadi Eshwaran Nagar, 1st Main road, the rider of the two wheeler drove the vehicle in a rash and negligent manner and as a result, he lost his control and the claimant fell down and sustained injury in Protamalphelan left 5th finger masilla with open knee injury. The claimant under went treatment as an in patient for nearly two days. It is under these circumstances, the claim petition came to be filed seeking for payment of 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 only due to the rash and negligent driving on the part of the rider of the two wheeler. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.4,80,876/- (rounded off to Rs.4,80,900/-) under various heads as follows :-

<i>Sl.No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Towards disability	Rs.1,50,000/-
2.	Towards pain and sufferings	Rs. 30,000/-
3.	Towards loss of earning during treatment	Rs. 7,000/-
4.	Towards medical expenses	Rs.2,48,876/-
5.	Towards loss of amenities	Rs.30,000/-
6.	Towards Attender charges	Rs. 5,000/-
7.	Towards Transportation charges	Rs. 5,000/-
8.	Towards Extra Nourishment	Rs. 5,000/-
	Total	Rs.4,80,876/-



Rounded off to Rs.4,80,900/-

The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

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

5. Heard Mr.R.Mohan Babu, learned counsel for appellant /claimant and Mrs.I.Malar, learned counsel for respondent/Insurance company.

6. This Court has 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 total disability of the claimant was assessed by the



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Medical Board at 30%. The Tribunal had adopted the per percentage method. The accident had taken place in the year 2019. However, the Tribunal fixed Rs.5,000/- per percentage. Considering the judgement of the Division Bench in CMA No.3334 of 2021 dated 15.06.2022, this Court is inclined to fix a sum of Rs.7,000/- per percentage. Thus, the compensation under the head of disability works out to Rs.2,10,000 [Rs.7000 x 30].

9. Considering the nature of injury sustained by the claimant, she would have been out of job for atleast two months and therefore, this Court is inclined to fix a sum of Rs.15,000/- under the head of loss of earnings (Rs.7,500 x 2 months).

10. The compensation granted by the Tribunal under the other heads are reasonable and it does not require the interference of this Court.

11. In the light of the above discussion, the compensation fixed by the Tribunal is modified in the following terms :-



<i>Sl.No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Towards disability	Rs.2,10,000/-
2.	Towards pain and sufferings	Rs. 30,000/-
3.	Towards loss of earning during treatment	Rs. 15,000/-
4.	Towards medical expenses	Rs.2,48,876/-
5.	Towards loss of amenities	Rs.30,000/-
6.	Towards Attender charges	Rs. 5,000/-
7.	Towards Transportation charges	Rs. 5,000/-
8.	Towards Extra Nourishment	Rs. 5,000/-
	Total	Rs.5,48,876/-

12. The compensation awarded by the Tribunal at Rs.4,80,876/- is enhanced to Rs.5,48,876/-. The 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 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.



Civil Miscellaneous Appeal No.1304 of 2023

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The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

13. In the result, the Civil Miscellaneous Appeal is partly allowed in the above terms. No costs.

03.07.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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N.ANAND VENKATESH.,J

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To,



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Motor Accident Claims Tribunal, II Court of small causes, Chennai.

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