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CMA.No.1382 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.No.1382 of 2024

Balamuralikrishna

... Appellant

VS.

1. D.Sathiskumar

2. The Branch Manager

New India Insurance Company Ltd.,

No.185, SPS Building,

Anna Salai,

Chennai.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 29.07.2022 in M.C.O.P.551/2018 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Dharmapuri.

For Appellants : Mr.M.Sudhan

For R1 : Mr.K.Gandhi Kumar

For R2 : Mr.J.Chandran

J U D G M E N T

The appellant is the claimant in M.C.O.P.551/2018 on the file



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of the Motor Accident Claims Tribunal, Chennai. He filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.15,00,000/- for the injuries sustained by him in a road accident which happened on 21.05.2018.

2. The brief case of the appellant / claimant is as follows :

On 21.05.2018, the appellant was walking along Papparapatti - Penngaram main road. When he was nearing Papparapatti bus stop, a motor cycle bearing Registration number TN-29-BH-6898 belonging to the first respondent hit him, as a result of which, he sustained injuries all over his body.

3. According to the claimant, the rash and negligent driving of the driver of the two wheeler bearing Registration number TN-29-BH-6898 was the cause of the accident and that since the said vehicle was insured with the second respondent, the New India Insurance Company Limited, the owner and the insurer are jointly and severally liable to pay compensation to him.



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4. The Tribunal, after analysing the evidence on record, awarded a compensation of Rs.84,751/- together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation, vide its orders dated 29.07.2022.

5. Aggrieved over the quantum of compensation awarded by the Tribunal, the appellant / claimant has filed the present appeal under Section 173 of the Motor Vehicles Act.

6. Heard Mr.M.Sudhan, learned counsel for the appellant, Mr.K.Gandhi Kumar, learned counsel appearing for the first respondent and Mr.J.Chandran, learned counsel for the second respondent.

7. Mr.M.Sudhan, learned counsel for the appellants contended that the claimant was a tailer by profession and on account of the injuries sustained by him, he could not do his usual work for three months. However, the Tribunal did not award any amount towards loss of income. Therefore he prayed for enhancement of compensation.



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8. Per contra Mr.J.Chandran, learned counsel appearing for the second respondent contended that the Tribunal had taken into consideration the disability sustained by the claimant and awarded just compensation and therefore, the same need not be disturbed.

9. The claimant had no partial permanent disability and the Tribunal taking into account the actual medical expenditure incurred by him, transportation charges, pain and sufferings and damage to clothes, awarded compensation to the tune of Rs.84,751/-.

10. According to the claimant, he was a tailor by profession, earning a sum of Rs.20,000/- per month. In the absence of income proof, the monthly income of the claimant is fixed as Rs.12,000/-. On account of the injuries sustained by the claimant, he would have been out of action atleast for three months. Therefore a sum of Rs.36,000/- (12,000x3) is awarded towards loss of income to the claimant. The following tabular column would show the amount awarded by the Tribunal and the amount awarded by this Court under various heads.



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<i>S.No</i>	<i>Heads</i>	<i>Amount awarded by Tribunal</i>	<i>Amount awarded by this Court</i>
1.	Pain and sufferings	Rs.15,000/-	Rs.15,000/-
2.	Medical expenses	Rs.54,751/-	Rs.54,751/-
3.	Loss of income for three months	Nil	Rs.36,000/- (Rs.12,000/- X 3)
4.	Transportation	Rs.13,000	Rs.13,000/-
5.	Damage to clothing	Rs.2,000/-	Rs.2,000/-
	TOTAL	Rs.84,751/-	Rs.1,20,751/-

11. Thus, the compensation awarded by the Tribunal is enhanced from Rs.84,751/- to Rs.1,20,751/- which would carry interest at the rate of 7.5% per annum.

12. In the result,

- The Civil Miscellaneous Appeal is partly allowed. No costs.
- The compensation awarded by the Tribunal is enhanced to Rs.1,20,751/-
- The appellant / claimant is directed to pay the court fee for the enhanced compensation amount, if any, within a period of four weeks from the date of this order and the Registry is directed to



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draft the decree only after receipt of the Court fee.

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- iv. The second Respondent, New India Insurance Company Limited, is directed to deposit the enhanced compensation amount i.e., Rs.1,20,751/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of a copy of this order / uploading of this order to the credit of M.C.O.P.551/2018 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Dharmapuri.
- v. On such deposit being made, the appellant / claimant is at liberty to withdraw the same as per the orders passed by the Tribunal after following due process of law.
- vi. The appellant / claimant is not entitled to claim any interest for the period of delay of 151 days in filing this appeal.

30.08.2024

Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes / No
vum



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To
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- 1.The Motor Accident Claims Tribunal
Chief Judicial Magistrate,
Dharmapuri.
- 2.The Section Officer, VR Section,
Madras High Court, Chennai.



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R.HEMALATHA, J.

vum

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