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C.M.A.No.3100 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-12-2024

CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI

CMA No. 3100 of 2024

Ganesan

Appellant

Vs

1. Raja

2.National Insurance Co. Ltd
Branch Office: SR Complex, Rajamani
Thottam, Salem - Bhavani Main Road,
Sankari 637 301.

Respondents

PRAYER

To allow the above Civil Miscellaneous appeal and enhance the award
in the order dated 08.07.2022 made in MCOP No.431 of 2015 on the file of the
Motor Accident Claims Tribunal/Subordinate Judge Court, Sankari.

For Appellant(s): M/s.P.Neelavathi
for Mr.C.Paraneedharan

For R2: Mrs.N.B.Surekha



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JUDGEMENT

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This Civil Miscellaneous Appeal has been filed by the appellant/claimant, challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal in M.C.O.P.No.431 of 2015 dated 08.07.2022.

2. On 17.07.2015, at about 6.45 p.m., when the appellant was driving the two wheeler bearing Reg.No.TN 30 U 3412 towards Ramapuram to Morepalayam, Near Aandikkadu Milk Society, at that time, a JCB vehicle bearing Reg.No.TN-34-P-4932, owned by the first respondent, insured with the 2nd respondent, driven by its driver in a rash and negligent manner and dashed against the two wheeler of the appellant. Due to the impact, the appellant/claimant sustained grievous injuries and fractures all over his body. Hence, the appellant/claimant, made a claim petition before the Tribunal seeking a sum Rs.15,00,000/- as compensation.

3. Before the Tribunal, the claimant/appellant examined himself as P.W.1 and marked Exhibits P1 to P9 and on the side of the respondents, no documents were marked and no witness was examined and the disability certificate and X-ray were marked as Ex.C1. After trial, the Tribunal, on consideration of oral and documentary evidence, has awarded a sum of



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Rs.2,05,450/- as compensation to the appellant. Being not satisfied with the same, the appellant/claimant has preferred the present appeal.

4. The learned counsel for the appellant/claimant would submit that at the time of accident the appellant was aged about 31 years and was working as a car driver and was earning a sum of Rs.20,000/- per month. However, without considering the same, the Tribunal had fixed a sum of Rs.16,000/- towards 'loss of income' during the treatment period, which is on the lower side and the compensation awarded under the other heads are also on the lower side and the same has to necessarily be enhanced. Accordingly, he prayed for appropriate orders.

5. Per contra, the learned counsel appearing for the 2nd respondent/ Insurance Company submitted that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prayed for dismissal of the appeal.

6. Heard the learned counsel on either side and perused the materials available on record.



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7. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The main grievances of the appellant/claimant is with regard to the quantum of compensation awarded by the Tribunal. In the present case, as noticed above, at the time of accident, the appellant was a car driver and aged about 31 years, earning a sum of Rs.20,000/- per month. Taking into consideration the facts and circumstances of the case and submission made by the learned counsel for the appellant, this Court feels that the loss of income during the treatment period fixed by the Tribunal at a sum of Rs.16,000/- is on the lower side and thus, it would be appropriate to fix the loss of income during the treatment period of the appellant/claimant at Rs.20,000/- per month, which is just and reasonable.

8. A sum of **Rs.15,000/-** awarded by the Tribunal under the head "Extra Nourishment", which appears to be low, and the same is hereby modified to **Rs.25,000/-**.

9. Insofar as the compensation awarded by the Tribunal under other heads are concerned, this Court finds that the same are just and proper and are hereby confirmed. Thus, the total compensation payable to the claimant under various Heads is as hereunder:-



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<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Disability	40,000/-	40,000/-
Pain and sufferings	50,000/-	50,000/-
Medical expenses during treatment period	59,450/-	59,450/-
Loss of income during treatment period	16,000/-	20,000/- (enhanced)
Extra nourishments	15,000/-	25,000/- (enhanced)
Transportation	15,000/-	15,000/-
Attender charges	10,000/-	10,000/-
Total	2,05,450/-	2,19,450/-

10. Accordingly, the appeal is partly allowed and the impugned award of the Tribunal is modified enhancing the compensation amount from **Rs.2,05,450/-** to **Rs.2,19,450/-**. The 2nd respondent/Insurance Company is directed to deposit the said amount to the credit of MCOP No.431 of 2015 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the said amount directly to the bank account of the Appellant through RTGS within a period of two (2) weeks thereafter, upon production of proof with



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regard to payment of Court fee on the enhanced compensation by the appellant.

It is underscored that the appellant is not entitled to any interest for the delay period of 134 days as per the order dated 30.10.2024. No costs.

03-12-2024

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes / No

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To

- 1.Motor Accident Claims Tribunal,
Subordinate Judge Court, Sankari.
2. The Section Officer,
V.R. Section, High Court, Madras.



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M.DHANDAPANI, J.

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