



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.2864 of 2023

B.Sakthivel

..Appellant

.VS.

1.Vetrivel

2.Shriram General Insurance Company Ltd.,
E.8, EPIP, Sitapura Industrial Area
Jaipur, Rajasthan-302022.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award in judgement and Decree dated 07.12.2022 made in MCOP No.441 of 2020, on the file of the Motor Accident Claims Tribunal, Dharmapuri, Special Subordinate Court (MACT), Dharmapuri

For Appellant : Mr.P.M.Jayachandran

For Respondents : Mrs.C.Bhuvanasundari
for R2

JUDGMENT

The claimant not being satisfied with the quantum of compensation fixed by the Tribunal has filed the present appeal against the award in MCOP No.441 of 2020,



dated 17.12.2022.

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2.The case of the claimant is that he was riding a two wheeler on 28.07.2020 at Mathur to Pochampalli Road and at about 9.00 a.m., when the vehicle reached the place of occurrence, the offending vehicle which belongs to the 1st respondent was driven in a rash and negligent manner and it dashed on the two wheeler driven by the claimant. The claimant was thrown out of the vehicle and he sustained injury in his face resulting in contusion on the left side of the pre-auricular region. The claimant underwent treatment as an inpatient for five days and he was treated with "Open reduction and internal fixation with mini plates and screws and IMF". The Medical Board assessed the disability at 12%. It is under these circumstances, the claim petition came to be filed before the Tribunal 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 offending vehicle.

4.The Tribunal having rendered the above finding fixed the total compensation at Rs.2,29,899/- under various heads as follows:



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Sl.No.	Compensation awarded under the head	Amount (in Rs.)
1.	Compensation	60,000/-
2.	Mental agony	30,000/-
3.	Pain and suffering	20,000/-
4.	Nourishment	15,000/-
5.	Medical bills	83,899/-
6.	Attender charges	10,000/-
7.	Transport	10,000/-
8.	Loss on clothing	1,000/-
	Total	2,29,899/-

5.The above compensation was directed to be paid with interest at the rate of 7.5% p.a.

6.The claimant not being satisfied with the quantum of compensation fixed by the Tribunal has filed the present appeal seeking for enhancement of compensation.

7. Heard Mr.P.M.Jayachandran, learned counsel for the appellant and Mrs.C.Bhuvanasundari, learned counsel for R2 – Insurance Company.

8.This Court has carefully considered the submissions made on either side and the materials available on record. This Court has also carefully went through the



award passed by the Tribunal.

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9. The Tribunal has calculated disability by applying the per percentage method and a sum of Rs.5000/- was fixed per percentage. Considering the fact that the accident had taken place in the year 2020, this Court is inclined to fix a sum of Rs.8000/- per percentage. Accordingly, the compensation under the head of disability is fixed to Rs.96,000/- [Rs.8000/- * 12].

10.The Tribunal has granted compensation under the head of 'mental agony' to the tune of Rs.30,000/- and also 'pain and suffering' to the tune of Rs.20,000/-. Both these heads are consolidated and this Court is inclined to fix a sum of Rs.25,000/- under the head of 'pain and suffering'.

11.The Tribunal has not granted any compensation under the head 'loss of income' and this Court is inclined to fix a sum of Rs.10,000/- under this head, considering the injury sustained by the claimant and the fact that the claimant was working as a driver and he would not have been able to undertake his occupation for atleast one month.

12.The compensation that has been granted under the other heads are reasonable and it does not require the interference of this Court.



13. In the light of the above discussion, the compensation granted by the

Tribunal is modified as follows:

Sl.No.	Compensation awarded under the head	Amount (in Rs.)
1	Disability [8000 * 12]	96,000/-
2	Pain and suffering	25,000/-
3	Nourishment	15,000/-
4	Medical bills	83,899/-
5	Attender charges	10,000/-
6	Transport	10,000/-
7	Loss on clothing	1,000/-
8.	Loss of income during treatment (1 month)	10,000/-
	Total	2,50,899/-

14. The compensation awarded by the Tribunal at Rs.2,29,899/- is enhanced to Rs.2,50,899/-. The 2nd respondent - Insurance Company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest @ 7.5% p.a., from the date of claim petition till the date of deposit within a period of six 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/claimant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

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



22.07.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
kp



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N. ANAND VENKATESH., J

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To

Motor Accident Claims Tribunal,
Dharmapuri Special Subordinate Court
Dharmapuri.

CMA No.2864 of 2023

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