



C.M.A.No.1026 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

C.M.A.No.1026 of 2024

K.Mariappan

.. Appellant

Vs.

1.Muthukumaran.V

2.The Manager,
Reliance General Insurance Company Limited,
Reliance House,
No.6, Haddows Road, Nungambakkam,
Chennai – 600 034.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to enhance the compensation awarded in the order dated 21.11.2023 passed in M.C.O.P.No.2841 of 2022 on the file of the Motor Accident Claims Tribunal, (In the II Court of Small Causes, Chennai).

For Appellant : Mr.K.Balaji

For R2 : Ms.G.Sukumari



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J U D G M E N T

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The claimant not being satisfied with the quantum of compensation has filed the present appeal against the award passed by the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai, in M.C.O.P.No.2841 of 2022 dated 21.11.2023.

2.The case of the claimant is that he was riding a two wheeler on 21.05.2022 near Palur Railway Station gate and at about 15.45 hours, the offending vehicle which was a tipper lorry was driven in a rash and negligent manner and it came from behind and hit the two wheeler as a result of which, the claimant was thrown out of the vehicle and he sustained left leg necrotising fascitis. The claimant underwent treatment as inpatient for nearly 21 days in three spells. Surgery was also performed. As a result of the injuries sustained, wound debridement was done and skin grafting was also done in the left leg. As a result of this wound, there was post traumatic sequelae in the left leg. The Medical Board assessed the disability at 9%. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.



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3.The Tribunal on considering the facts and circumstances of the case and on appreciation of the 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 driver of the tipper lorry. The Tribunal thereafter proceeded to fix the total compensation at Rs.3,55,232/- under various heads as follows:

Sl.No.	Heads	Amount
1.	Towards Disability	Rs.45,000/-
2.	Towards Pain and Sufferings	Rs.10,000/-
3.	Towards Loss of earning during Treatment	Rs.95,295/-
4.	Towards Medical Expenses	Rs.1,79,937/-
5.	Towards Loss of Amenities	Rs.10,000/-
6.	Towards Attender Charges	Rs.5,000/-
7.	Towards Transportation Charges	Rs.5,000/-
8.	Towards Extra Nourishment	Rs.5,000
	Total	Rs.3,55,232/-

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



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

6.Heard the learned counsel for the appellant and the learned counsel for the 2nd respondent.

7.This Court has carefully considered the submissions made on either side and the materials available on record.

8.This Court has also carefully gone through the award passed by the Tribunal.

9.The learned counsel for the appellant submitted that the nature of injuries sustained by the claimant has resulted in his loss of income and loss of earning capacity. That apart, the claimant has to necessarily wear a socks in his left foot due to the skin grafting and surgery performed. The learned counsel for the appellant further submitted that the salary of the claimant was reduced and he was not allowed to continue as a



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Service Engineer and office work was given to the claimant with a reduced salary.

10.This Court has carefully gone through the discharge summary marked as Exs.P5 to P8 and also the photos which were marked as Ex.P17. It is clear that the injuries sustained by the claimant had some consequences as a result of which he developed an infectious wound and wound debridement was done, skin grafting was also done. In view of the same, the left foot of the claimant has become very delicate.

11.The fact remains that the claimant has not been removed from his job and he has been accommodated to do office work probably with a reduced salary. Therefore, it is clear that there is no functional disability warranting the application of multiplier method.

12.The accident had taken place in the year 2022 and therefore, this Court is inclined to fix a sum of Rs.8,000/- per percentage of disability. Accordingly, the compensation under the head of disability is fixed at Rs.72,000/- (Rs.8,000/- X 9%).



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13.Considering the nature of injuries, the claimant would have been out of work for atleast five months. Therefore, this Court is inclined to enhance the compensation under the head of loss of income to Rs.1,58,825/- (Rs.31,765/- X 5 months).

14.This Court has already taken into consideration the nature of injuries sustained and its consequences. In view of the same, this Court is inclined to enhanced the compensation under the head of pain and sufferings to Rs.50,000/-, loss of amenities to Rs.20,000/-, attender charges to Rs.20,000/-, transportation charges to Rs.15,000/- and extra nourishment to Rs.20,000/-.

15.The compensation that has been granted under the head medical expenses is reasonable and does not require the interference of this Court.

16.In the light of the above discussion, the compensation fixed by the Tribunal is modified as follows:



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1.Towards Disability	-	Rs.72,000/-
2.Towards pain and sufferings	-	Rs.50,000/-
3.Towards loss of income	-	Rs.1,58,825/-
4.Towards Medical Expenses	-	Rs.1,79,937/-
5.Towards loss of amenities	-	Rs.20,000/-
6.Towards Attender charges	-	Rs.20,000/-
7.Towards Transportation charges	-	Rs.15,000/-
8.Towards Extra nourishment	-	Rs.20,000/-

Rs.5,35,762/-

17.The compensation awarded by the Tribunal at Rs.3,55,300/- is hereby enhanced to Rs.5,35,762/-. The 2nd respondent-Insurance Company is directed to deposit the enhanced compensation together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four (4) weeks from the date of receipt of this judgment, if not already deposited. 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.



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

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

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

2.The Section Officer,
VR Section,
Madras High Court,
Chennai.



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N.ANAND VENKATESH, J.

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