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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1075 of 2024

K.Muthukumar

... Appellant

.vs.

1.P.Manikandan

2.The Manager,

United India Insurance Company Ltd.,

No.134, Sillingi Building,

Greens Road, Chennai – 600 006.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the order made in MCOP No.1627 of 2021, dated 29.11.2023 on the file of Motor Accident Claims Tribunal (in the II Court of Small Causes, Chennai).

For Appellant : Mr.K.Balaji

For Respondents : Ms.R.Rathna Thara for R2

JUDGMENT

The claimant not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.1627 of 2021, dated 29.11.2023 has filed this appeal seeking for enhancement of compensation.



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2.The case of the claimant is that on 15.02.2020, he was crossing the road from south to north at Chennai-Bangalore National Highways and at about 09.00 hours, the offending vehicle which was a two wheeler was driven in a rash and negligent manner and it hit the claimant. As a result of which, the claimant sustained fracture both bone left leg. He underwent treatment as an inpatient for nearly two days. The Medical Board assessed the disability of the claimant at 16%. 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 two wheeler. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.2,00,869/- (Rounded off Rs.2,00,900/-)under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Towards Disability	80,000
2.	Towards Pain and Sufferings	25,000



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S.No	Compensation awarded under the head	Amount (in Rs.)
3.	Towards Loss of earning during treatment	15,000
4.	Towards Medical Expenses	40,869
5.	Towards Loss of Amenities	25,000
6.	Towards Attender Charges	5,000
7.	Towards Transportation Charges	5,000
8.	Towards Extra Nourishment	5,000
	Total	2,00,869
	Rounded off	2,00,900

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

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

6.Heard Mr.K.Balaji, learned counsel appearing on behalf of the appellant and Ms.R.Rathna Thara, learned counsel appearing on behalf of the 2nd respondent.



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

8.The accident in this case had taken place in the year 2020. In view of the same, this Court is inclined to fix a sum of Rs.8,000/- per percentage. Accordingly, the compensation under the head of disability is fixed at Rs.1,28,000/- (Rs.8000 x 16%).

9.The claimant has suffered fracture both bone left leg and he came up with a case that he was engaged in the occupation as a Mason. The Tribunal has fixed only a sum of Rs.15,000/- towards loss of earnings. The nature of injury sustained by the claimant is such that he will not be able to undertake the avocation for atleast three months. Therefore, this Court is inclined to fix a sum of Rs.45,000/- (Rs.15,000 x 3) under the head of loss of income.

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

11.In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:



S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Towards Disability	1,28,000
2.	Towards Pain and Sufferings	25,000
3.	Towards Loss of earning during treatment	45,000
4.	Towards Medical Expenses	40,869
5.	Towards Loss of Amenities	25,000
6.	Towards Attender Charges	5,000
7.	Towards Transportation Charges	5,000
8.	Towards Extra Nourishment	5,000
	Total	2,78,869

12.The compensation awarded by the tribunal at Rs.2,00,869/- is enhanced to Rs.2,78,869/-. The second 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 claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



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N. ANAND VENKATESH., J

ssr

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

23.07.2024

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

The Motor Accident Claims Tribunal (in the II Court of Small Causes),
Chennai.

CMA No.1075 of 2024