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CMA.No.1387 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.1387 of 2024

N. Dhanasekaran

.... Appellant

vs.

1. P. Prabhu Dass

2. M/s. United India Insurance Company Limited,
Sillingi Building, 4th Floor,
No.134, Greams Road,
Chennai 600 006.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 17.10.2023 in M.C.O.P.3229/2018 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.I, Small Causes Court, Chennai.

For Appellant	: Mr. K. Balaji
R1	: No appearance
For R2	: Mr.K. Swaminathan



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J U D G M E N T

The appellant is the claimant in M.C.O.P.3229/2018 on the file of the Motor Accident Claims Tribunal, Small Causes Court, Chennai, and he filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.25,00,000/- for the injuries sustained by him in a road accident that took place on 17.01.2018.

2. The case of the claimant is that on 17.01.2018, he was travelling as a pillion rider in a motorcycle bearing Registration number TN-22-CA-5438 on M.K.N. Road, Alandur Subway, Chennai, and at about 16.45 hours, a speeding motorcycle bearing Registration No.TN-12-W-4654, belonging to the first respondent, came in the opposite direction and hit the motorcycle in which he was travelling as a result of which he fell down and sustained injuries all over his body. He was immediately rushed to MIOT hospital, Chennai, where he was treated as an in patient for 16 days.



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2.1. According to the claimant, the rash and negligent driving of the driver of the motorcycle bearing Registration No.TN-12-W-4654 was the cause of the accident and that since the said motorcycle was insured with the second respondent, the United India Insurance Company Limited, Chennai, the owner and the insurer are jointly and severally liable to pay compensation to him.

3. In the Tribunal the owner of the offending motorcycle remained absent and was set *ex parte*. The second respondent insurance company resisted the claim petition on all the grounds available to the insurer under Section 170 of the Motor Vehicles Act.

4. The Tribunal, after analysing the evidence on record, fastened negligence on the part of the driver of the motorcycle bearing Registration No.TN-12-W-4654 and directed the second respondent Insurance Company to pay compensation of Rs.1,85,200/- to the appellant/claimant together with interest at the rate of 7.5% per annum from the date of the petition till the date of realisation. The Tribunal further held that the liability of the owner of the offending motorcycle and



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the insurance company is joint and several.

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5. Aggrieved over the quantum of compensation awarded by the Tribunal, the claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

6. Heard Mr. K. Balaji, learned counsel appearing for the appellant and Mr.K. Swaminathan, learned counsel appearing for the second respondent/Insurance Company.

7. Mr. K. Balaji, learned counsel for the appellant contended that the claimant was working as a driver and had sustained 17% of partial permanent disability on account of the accident. However, the Tribunal awarded a meagre amount of Rs.1,85,200/- towards compensation. He, therefore, prayed for enhancement of the same.

8. Per contra, Mr.K. Swaminathan, learned counsel appearing for the second respondent/Insurance Company contended that the Tribunal, after analysing the evidence on record, had awarded just compensation and



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therefore the same need not be disturbed in the present appeal.

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9. A perusal of the records shows that the claimant was working as a driver in the Metropolitan Transport Corporation, Chennai and he sustained "Compound Grade III B Lateral Malleolus Fracture". The Medical Board attached to the Government Stanley Medical College Hospital, Chennai, assessed the partial permanent disability of the claimant as 17%. It is admitted by the claimant that he was given alternative job in the same Corporation. Hence there is no functional disability as far as the present case is concerned. The Tribunal therefore awarded a sum of Rs.85,000/- towards partial permanent disability by fixing a sum of Rs.5,000/- per percentage of disability. Considering the age of the claimant and the year of accident, a sum of Rs.7,000/- per percentage of disability is awarded. Hence, a sum of Rs.1,19,000/- is awarded towards partial permanent disability. The medical bills issued by MIOT hospital, Chennai, show that the claimant had incurred an expenditure of Rs.1,16,142/- towards his treatment.



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9.1. The following tabular column would show the amount awarded by the Tribunal and the enhanced amount awarded by this Court under various heads.

<i>S.No.</i>	<i>Description</i>	<i>Amount awarded by Tribunal (Rs.)</i>	<i>Amount awarded by this Court (Rs.)</i>
1.	Partial permanent disability	85,000/- (17x5000)	1,19,000/- 17x7000)
2.	Pain and sufferings	35,000/-	50,000/-
3.	Transportation	4,000/-	10,000/-
4.	Medical expenses	26,306/-	1,16,142/-
5.	Extra nourishment	10,000/-	20,000/-
6.	Attender charges	4,800/-	10,000/-
7.	Loss of amenities	20,000/-	20,000/-
		1,85,106/- Rounded off to 1,85,200/-	3,45,142/-

9.2. Thus, the compensation awarded by the Tribunal is enhanced to Rs.3,45,142/- that would carry interest at the rate of 7.5% per annum.



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10. In the result,

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i. The Civil Miscellaneous Appeal is partly allowed. No costs.

ii. The compensation awarded by the Tribunal is enhanced to Rs.3,45,142/-

iii. The appellant / claimant is directed to pay court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after receipt of Court fee.

iv. The second Respondent, the United India Insurance Company Limited, Chennai, is directed to deposit the enhanced compensation amount of Rs.3,45,142/- (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 to the credit of M.C.O.P.3229/2018 on the file of the Motor Accident Claims Tribunal, Small Causes Court, Chennai, within a period of four weeks from the date of receipt of a copy of this order/uploading of this order.



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- v. On such deposit being made, the appellant/claimant is at liberty to withdraw the same, after following due process of law.
- vi. The claimant is not entitled to claim interest for the period of delay of 5 days in preferring this appeal.

14.10.2024

Index : Yes/No
Speaking/Non-speaking order
bga
To

1. Motor Accident Claims Tribunal, Court of Small Causes, Chennai.
2. M/s. United India Insurance Company Limited,
Sillingi Building, 4th Floor,
No.134, Greaves Road,
Chennai 600 006.
3. The Section Officer, VR Section, Madras High Court, Chennai.



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R.HEMALATHA, J.

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