



Civil Miscellaneous Appeal No.1073 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1073 of 2024

N.Sundar Raj
S/o.Natesan

... Appellant

Vs.

1.G.Sairaj

2.The Oriental Insurance Co. Ltd.,
Third Party Claim Office,
No.216/115, Prakasam Salai,
Broadway, Chennai - 600 108.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 17.11.2023 made in M.C.O.P.No.6216 of 2018 on the file of the Motor Accident Claims Tribunal, Special Sub Court I, Small Causes Court, Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For Respondents : Dispensed with [R1]
Mr.J.Chandran [R2]

JUDGMENT

On consent given by either side, the main appeal itself is taken up for final disposal.



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2. The claimant, who is the injured in this case, has filed the present appeal challenging the quantum of compensation fixed by the Motor Accident Claims Tribunal, Special Sub Court I, Small Causes Court, Chennai, in M.C.O.P.No.6216 of 2018, dated 17.11.2023.

3. The case of the appellant/claimant is that while he was crossing the Arumbakkam 100 feet road on 12.08.2018, at about 04.00 hours, the first respondent herein had driven his motor cycle in a rash and negligent manner and dashed the claimant, as a result of which, the claimant suffered 'both bone fracture left forearm and compound type I fracture both bone left leg'. The claimant took treatment as an inpatient from 12.08.2018 to 29.08.2018 and a surgery was also performed. The disability was assessed by the Medical Board and considering the nature of injuries sustained by the claimant, the permanent disability was assessed at 22%. It is under these circumstances, the claim petition came to be filed before the Tribunal.

4. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a categorical conclusion that the accident had taken place due to the rash



and negligent driving of the two-wheeler driven by the first respondent herein. After having come to such a conclusion, the Tribunal fixed the total compensation at Rs.1,97,900/- under various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Disability	1,10,000/-
2.	Pain and Sufferings	30,000/-
3.	Loss of earnings	22,000/-
4.	Extra Nourishment	10,000/-
5.	Loss of amenities	10,000/-
6.	Transportation	6,300/-
7.	Attender charges	5,100/-
8.	Medical Expenses	4,500/-
	Total	1,97,900/-

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

5. The appellant/claimant, not being satisfied with the quantum of compensation awarded by the Tribunal, has filed this appeal seeking for enhancement of compensation.

6. Heard Mr.K.Varadha Kamaraj, learned counsel for appellant/claimant and Mr.J.Chandran, learned counsel for second respondent.



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

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

9. In the instant case, the accident had taken place in the year 2018. The Medical Board had assessed the permanent disability at 22%. The Tribunal had fixed Rs.5,000/- per percentage. This is obviously on the lower side. Considering the judgment of the Division Bench of this Court in C.M.A.No.3334 of 2021, dated 15.06.2022 [Future General India Insurance Company Limited v. Manivannan and others], this Court is inclined to award Rs.7,000/- per percentage of disability. Thus, the total compensation under this head works out to Rs.1,54,000/- [7000 * 22].

10. The claimant was an auto driver. The injuries that were sustained by the claimant have already been taken note of. Considering the avocation of the claimant, he would have been out of action for at least four months. The Tribunal has taken into consideration the loss of



earning only for two months, which has to be enhanced to four months at the rate of Rs.11,000/- per month. Accordingly, the compensation under the head 'loss of earnings' is enhanced to Rs.44,000/- [11000 * 4].

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

12. In the light of the above discussion, this Court modifies the compensation in the following manner:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount awarded by Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	Disability	1,10,000/-	1,54,000/-
2.	Pain and Sufferings	30,000/-	30,000/-
3.	Loss of earnings	22,000/-	44,000/-
4.	Extra Nourishment	10,000/-	10,000/-
5.	Loss of amenities	10,000/-	10,000/-
6.	Transportation	6,300/-	6,300/-
7.	Attender charges	5,100/-	5,100/-
8.	Medical Expenses	4,500/-	4,500/-
	Total	1,97,900/-	2,63,900/-



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N.ANAND VENKATESH, J.

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13. The compensation awarded by the Tribunal at Rs.1,97,900/- is enhanced to Rs.2,63,900/-. 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 appellant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

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

03.06.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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To

The Motor Accident Claims Tribunal,
Special Sub Court I, Small Causes Court,
Chennai.

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