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C.M.A.No.1985 of 2...

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **21.08.2024**

CORAM

THE HON'BLE MRS. JUSTICE R. HEMALATHA

C.M.A.No.1985 of 2024

P.Shanmugam

... Appellant

Vs.

1.S.Manikandan

2.The New India Assurance Company Limited,
Juman Centre, No.43A/2, Promenade Road,
Cantonment,
Trichy - 620 001.

... Respondents

PRAYER: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Judgment and decree dated 01.04.2021 made in M.C.O.P. No.610 of 2019 on the file of the Motor Accidents Claims Tribunal, Principal District Court, Namakkal.

For Appellant : Mr.M.Lokesh

For Respondents : Ms.A.Salomi
for R2

R1 - Dispensed with

JUDGMENT

The appellant is the claimant in M.C.O.P. No.610 of 2019 on the file



of the Motor Accidents Claims Tribunal, Principal District Court, Namakkal. He filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.7,00,000/- for the injuries sustained by him in a road accident which happened on 02.12.2018.

2. The brief case of the appellant / claimant is as follows :

On 02.12.2018, the claimant was riding his two wheeler bearing registration No.TN 28 AS 1481 on Salem - Namakkal main road. At about 09.40 a.m., when he was nearing Pudhanchandhai, a L.G.V. TATA 407, Milk Van bearing registration No.TN 48 AT 4627 hit the two wheeler from behind, as a result of which, the appellant fell down from his two wheeler and sustained injuries all over his body. He was immediately rushed to Hospital and took treatment as an in-patient for nine days.

3. According to the claimant, the rash and negligent driving of the driver of the L.G.V. TATA 407, Milk Van bearing registration No.TN 48 AT 4627 was the cause of the accident and since the said vehicle was insured with the second respondent, the New India Assurance Company Limited, both the owner and the insurer are jointly and severally liable to



pay the compensation to the claimant.

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4. In the Tribunal, the first respondent remained absent and was set *ex-parte*. The second respondent resisted the claim petition on all the grounds available to them under Section 170 of the Motor Vehicles Act.

5. The Tribunal after analysing the evidence on record awarded a sum of Rs.1,46,700/- towards compensation together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation, vide its orders dated 01.04.2021. The Tribunal also held that the liability of the owner and the Insurance Company is joint and several.

6. 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.

7. Heard Mr.M.Lokesh, learned counsel appearing for the appellant and Ms.A.Salomi, learned counsel for the second respondent.

8. Mr.M.Lokesh, learned counsel appearing for the appellant



contended that the Tribunal had awarded only a sum of Rs.3,000/- per percentage of disability for the accident that took place in the year 2018 and he, therefore, prayed for enhancement of compensation awarded by the Tribunal. He also contended that the Tribunal had awarded meager amounts under other heads.

9. It is seen from the records that the claimant had sustained hip fracture and was hospitalized for about nine days. His disability is 20%. Considering the nature of injuries sustained by the claimant, a sum of Rs.7,000/- is awarded per percentage of disability. This Court is also inclined to enhance the award amount under the other heads and the same is shown in the following tabular column:

<i>Heads</i>	<i>Amount awarded by the Tribunal in Rs.</i>	<i>Amount awarded by this Court in Rs.</i>
Partial Permanent Disability	60,000	(Rs.7,000/- x 20) 1,40,000
Loss of Income for 3 months	15,000	(Rs.15,000/- x 3) 45,000
Medical Bills	56,700	56,700
Pain and sufferings	5,000	10,000
Transportation expenses	5,000	5,000
Nutrition expenses	5,000	10,000
Attender charges	---	5,000



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<i>Heads</i>	<i>Amount awarded by the Tribunal in Rs.</i>	<i>Amount awarded by this Court in Rs.</i>
Total	1,46,700	2,71,700

10. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed.
- ii. The compensation awarded by the Tribunal is enhanced from Rs.1,46,700/- to Rs.2,71,700/-.
- iii. The appellant / claimant is directed to pay court fee for the enhanced compensation amount, if any, within a period of four weeks from the date of this order and the Registry is directed to draft the decree only after receipt of the Court fee.
- iv. The second respondent, the New India Assurance Company Limited is directed to deposit the enhanced compensation amount i.e., Rs.2,71,700/- (less the amount already deposited, if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of a copy of this order to the credit of M.C.O.P. No.610 of 2019 on the file of the Motor Accidents Claims Tribunal, Principal District Court, Namakkal.
- v. On such deposit being made, the appellant / claimant is at liberty to



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withdraw the same as per the orders passed by the Tribunal after following due process of law.

- vi. It is made clear that the appellant is not entitled for interest for the period of delay of 697 days in filing this appeal on the amount enhanced by this Court. No costs.

21.08.2024

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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C.M.A.No.1985 of 2020

To

1. The Motor Accidents Claims Tribunal, Principal District Court, Namakkal.
2. The Section officer, Record Section, High Court of Madras.



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R. HEMALATHA. J.,

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