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C.M.A.No.3254 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.3254 of 2024

Ramya (Declared as Major)

... Appellant

Vs.

1.K.Elumalai

2.Reliance General Insurance Co. Ltd,
Motor Third Party Claims,
No.6, Reliance House, 6th Floor,
Haddows Road, Nungambakkam,
Chennai – 6.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgement and Decree dated 20.12.2023 made in M.C.O.P.No.7871 of 2015 on the file of Motor Accident Claims Tribunal (IV Court of Small Causes), Chennai.

For Appellant : Mr.K.Varadhakamaraj

For Respondents : Notice dispensed with vide
order dated 20.11.2024 [R1]
Mr.P.Suresh Srinivasan [R2]



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JUDGMENT

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2. The case of the appellant is that, on 15.03.2015, at about 7.45 hours, while he was an occupant of the car bearing Regn.No.TN-11-Z-9835, owned by the 1st respondent and insured with the 2nd respondent, at a place in Chennai to Thiruvannamalai Bye-Pass college road near to Adidravidar Hostel, the driver of the above vehicle drove the same in a very rash and negligent manner lost control and as a result got capsized, thereby, he sustained grievous injuries. Therefore, the appellant had filed a claim petition claiming a sum of Rs.20,00,000/- for the injuries sustained by him in the said road accident.

3. Before the Tribunal, the appellant had examined himself as P.W.1 and marked 16 documents viz., Ex.P.1 to Ex.P.16. No witnesses were examined nor any documents were marked on the side of the respondents. The Tribunal has marked the Medical Board Certificate of



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the appellant/petitioner as Ex.C.1. After adjudication, the Tribunal awarded a sum of Rs.1,63,000/- as compensation to the appellant. Not satisfied with the same, the appellant has preferred the present appeal seeking enhancement.

4. Learned counsel appearing for the appellant submitted that, at the relevant point of time, per percentage of disability is Rs.5,000/-, however, the Tribunal had awarded a sum of Rs.56,000/- by fixing a sum of Rs.4,000/- per percentage of disability and disability at 14%, which is not sustainable and the same requires to be re-considered by this Court. Further, the other heads awarded by the Tribunal is meagre and the same requires to be enhanced. Accordingly, he prays for appropriate enhancement in favour of the appellant.

5. Learned counsel appearing for the second respondent/Insurance Company submitted that, the amount of Rs.4,000/- awarded per percentage of disability is reasonable and so also the compensation awarded under the other heads, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.



6. Heard the learned counsel appearing for the appellant and the learned counsel appearing on behalf of the second respondent and perused the materials available on record.

7. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The only grievance of the appellant/claimant is with regard to the quantum of compensation awarded. In this regard, this Court perused Ex.C.1, which is the disability certificate issued by the Medical Board at Government Royapettah Hospital, Chennai and the same reveals that the appellant had suffered disability of 14%. By considering the said certificate, the Tribunal, had erroneously adopted a sum of Rs.4,000/- per percentage of disability and awarded a sum of Rs.56,000/- towards disability. However, as per the existing law at the relevant point of time, the Tribunal ought to have fixed a sum of Rs.5,000/- per percentage of disability. Hence, this Court is inclined to fix a sum of Rs.5,000/- per percentage of disability. Therefore, the amount under the head of disability stands enhanced to a sum of Rs.70,000/- (14 x Rs.5,000/- = Rs.70,000/-).



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8. Further, the Tribunal had awarded a sum of Rs.33,996/- towards medical expenses; Rs.25,000/- towards pain and suffering; Rs.5,000/- towards transportation expenses; Rs.5,000/- towards nutrition expenses; Rs.1,000/- towards damages to clothes; Rs.12,000/- towards attender charges and Rs.25,000/- towards loss of amenities. This Court finds that the compensation awarded under the heads medical expenses, damages to clothes and attender charges are just and reasonable and the same does not require any interference. However, insofar as the compensation awarded towards pain and suffering, transportation expenses and nutrition expenses are concerned, this Court feels that a sum of Rs.40,000/-, Rs.10,000/- and Rs.20,000/- respectively would be just and reasonable compensation.

9. Taking into account the fact that the appellant has taken treatment in the hospital as in-patient for 30 days, this Court awards a sum of Rs.30,000/- (10,000/- x 3) towards loss of earnings during treatment period by fixing a sum of Rs.10,000/- as monthly income. Insofar as the compensation awarded under the head “loss of amenities”, no compensation can be awarded under such head as the same is not a



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conventional head, which attract any compensation. Therefore, the compensation awarded under the said head is accordingly set aside.

10. In view of the above, the compensation awarded by the Tribunal is modified as under :-

<i>S.No.</i>	<i>Description</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
1	Disability (14 x 5,000)	56,000/-	70,000/- (enhanced)
2	Medical expenses	33,996/-	33,996/-
3	Pain and Suffering	25,000/-	40,000/- (enhanced)
4	Transportation Expenses	5,000/-	10,000/- (enhanced)
5	Nutrition Expenses	5,000/-	20,000/- (enhanced)
6	Damage to Clothes	1,000/-	1,000/-
7	Attender charges	12,000/-	12,000/-
8.	Loss of Amenities	25,000/-	---
9.	Loss of Earnings during treatment period	---	30,000/-
	Total	1,62,996/-	2,16,996/-
	Rounded off to	1,63,000/-	2,17,000/-

11. Accordingly, this Civil Miscellaneous Appeal is partly allowed and the compensation amount is enhanced from **Rs.1,63,000/-** to



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Rs.2,17,000/-. The second respondent/Insurance Company is directed to deposit the compensation amount, awarded by this Court, to the credit of M.C.O.P.No.7871 of 2015 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four weeks (4) from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellant/claimant through RTGS within a period of two (2) weeks thereafter upon production of proof with regard to payment of Court fee on the enhanced compensation. The appellant/claimant is directed to pay necessary additional Court fee on the enhanced compensation amount. There shall be no order as to costs in the present appeal.

13.12.2024

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To
The Motor Accident Claims Tribunal (IV Court of Small Causes),
Chennai.

Copy to
The Section Officer, V.R.Section, High Court, Madras.



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