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C.M.A.No.16 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.No.16 of 2022

Thendral

.. Appellant

Vs.

1. S.Krishnan

2. The Divisional Manager,
3rd Party Claims hub,
United India Insurance Co. td.,
Katpadi road, Vellore.

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Judgment and Decree dated 30.11.2020 passed in M.A.C.T.O.P.No.17 of 2014 by the learned Motor Accident Claims Tribunal, Special Subordinate Judge, Tirupattur.

For Appellant : Mr.A.Subadra
For Respondents : Notice dispensed with (R1)
Mr.S.Raghul
for M/s.R.Rathna Thara (R2)

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This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 30.11.2020 made in M.C.O.P.No.17 of 2014 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Tirupattur.

2.The appellant is the claimant in M.A.C.T.O.P.No.17 of 2014 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Tirupattur. She filed the above said claim petition, claiming a sum of Rs.5,00,000/- as compensation on account of the injuries sustained by her in an accident that took place on 10.07.2011.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the rider of the two wheeler LIBERO bearing Registration No.TN 23-AC-3433, belonging to the first respondent herein and directed the 2nd respondent- Insurance Company to pay a sum of Rs.1,50,056/- as compensation to the appellant.

4.Not being satisfied with the amounts awarded by the Tribunal, the



appellant has come out with the present appeal seeking enhancement of compensation.

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5.The learned counsel appearing for the appellant contended that due to the aforesaid accident, the appellant sustained fracture of left femur for which open reduction and internal fixation and plat osteosynthesis left femur under general anaesthesia was done on 11.07.2011 in the right leg and multiple injuries all over the body, while so, the Claims Tribunal, without considering the same, has awarded a meager compensation. He further submitted that the rod fixed has to be removed in future for which huge expenses will be incurred and hence he prays to award compensation towards Future Medical Expenses. He would further contend that the amount of compensation awarded towards other heads is also very low and hence prayed for enhancement of compensation.

6. The learned counsel appearing for the 2nd respondent-Insurance Company submitted that the Claims Tribunal, after considering oral and documentary evidence, has rightly awarded compensation under various heads and therefore the same does not warrant any interference.



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7. Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the 2nd respondent-Insurance Company and perused the entire materials on record.

8. Considering the nature of injuries sustained by the claimant and that a rod fixed has to be removed in future, this Court is of the view that a sum of Rs.25,000/- can be awarded towards ***Future Medical Expenses***. Accordingly, a sum of Rs.25,000/- is awarded under the head ***Future Medical Expenses***. Having regard to the age of the claimant and the injuries sustained, the compensation awarded towards ***Pain and Suffering*** is enhanced from Rs.40,000/- to Rs.60,000/-, ***Extra nourishment*** is enhanced from Rs.5,000/- to Rs.7,000/-, Attender charges is enhanced from Rs.2,000/- to Rs.5,000/-, ***Transportation Expenses*** from Rs.5,000/- to Rs.10,000/-.

9. The amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:



S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Pain and Suffering	40,000/-	60,000/-	Enhanced
2.	Extra Nourishment	5,000/-	7,000/-	Enhanced
3.	Attender charges	2,000/-	5,000/-	Enhanced
4.	Medical Expenses	88,056/-	88,056/-	Confirmed
5.	Transportation Expenses	5,000/-	10,000/-	Enhanced
6.	Loss of Amenities	10,000/-	10,000/-	Confirmed
7.	Future Medical Expenses	Nil	25,000/-	Granted
	Total	Rs.1,50,056/-	Rs.2,05,056/- Rs.2,05,000/- (rounded off)	Enhanced by Rs.55,000/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,50,056/- is hereby enhanced to Rs.2,05,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The 2nd respondent-Insurance Company is directed to deposit the award amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of *six weeks* from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.17 of 2014 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Tirupattur. On such deposit being made, the Tribunal is directed to transfer the Award amount



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directly to the Bank account of the Appellant/Claimant through RTGS, within a period of **three weeks** thereafter. The 2nd Respondent-Insurance Company is at liberty to recover the compensation deposited from the 1st respondent, the owner of the two wheeler in the manner known to law. The claimant is directed to pay necessary Court fee, if any on the enhanced compensation. However, it is made clear that if there is any delay in filing the C.M.A. and in case of any earlier order by this Court, depriving interest for the period of delay in question, the interest portion for that period should be excluded for the purpose of granting interest. No costs.

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3. The Section Officer,
VR Section,
High Court,
Madras.

KRISHNAN RAMASAMY, J.
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