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C.M.A.No.2932 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.2932 of 2024

Yegamurthy @ Yagamoorthy

... Appellant / Petitioner

Vs.

The District Collector,
Cuddalore-607 001.

... Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 26.06.2023 made in M.C.O.P.No.2426 of 2017 on the file of the Motor Accident Claims Tribunal/Principal Sub Court, Cuddalore.

For Appellant : Ms.Ramya V.Rao

For Respondent : Mr.P.Gurunathan
Additional Government Pleader



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J U D G M E N T

The appellant / claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, Principal Subordinate Court, Cuddalore, in M.C.O.P.No.2426 of 2017, dated 26.06.2023, has filed this appeal.

2. On 23.03.2017 at about 15.30 hrs, when the claimant was riding a two-wheeler along with a pillion rider from east to west at a moderate speed keeping extreme left of Panruti-Cuddalore Main Road near Kaliyammankoil, T.Kumarapuram, the car belonging to the respondent came from the opposite direction was driven by its driver at a great speed in a rash and negligent manner, without making horn and dashed against the appellant/claimant, as a result, he sustained fractures. In this regard, FIR was registered in Crime No.167 of 2017. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for compensation.



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3. Before the Tribunal, on the side of the claimant, the claimant himself was examined as P.W.1 and Exs.P1 to P11 were marked. On the side of the respondent, R.W.1 was examined and no document was marked. The Disability Certificate issued by the Medical Board, Cuddalore, was marked as Ex.C1. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the car. Having reached such a finding, the Tribunal proceeded to fix the total compensation at Rs.4,49,842/- under various heads. The above compensation was directed to be paid by the respondent along with interest at 7.5% p.a.

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



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5. The learned counsel appearing for the appellant submitted that the appellant was working as Painter and was earning Rs.18,000/- per month and due to rash and negligent driving of the driver of the respondent, the appellant sustained grievous injuries. He further submitted that the Tribunal has not taken into account the appellant's inability to work in future and has given much less importance. He further submitted that the appellant has taken treatment for six months, however, the Tribunal has awarded loss of income for three months only. When the doctor has clearly deposed about the disability suffered by the claimant, the amount of Rs.5,000/- per percentage of disability awarded by the Tribunal is wholly inadequate. Further, the amount awarded under the other heads is also very minimal. Hence, the learned counsel for the appellant prays for enhancement of compensation.

6. The learned Additional Government Pleader appearing for the respondent submitted that the appellant has not impleaded the Insurance



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Company as necessary party in the claim petition and the accident occurred due to rash and negligent driving of the appellant and the compensation awarded by the Tribunal is also on the higher side.

7. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

8. In the instant case, the accident had taken place in the year 2017. However, the Tribunal, while adopting the per percentage method, has fixed only a sum of Rs.5,000/- per percentage for granting compensation under the head 'disability'. As the years progress, the amount that is fixed per percentage must also increase considering the cost of living and therefore, this Court is inclined to fix an amount of Rs.7,000/- per percentage. Accordingly, the compensation under the head 'disability' is fixed at Rs.4,06,000/- (Rs.7,000/- * 58%).



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9. Further, it is submitted by the learned counsel appearing for the appellant/claimant that the claimant has taken treatment for six months. Considering the injuries sustained by the claimant and the treatment undergone by him and also considering the avocation of the claimant, this Court is of the view that granting loss of income for a period of six months would be sufficient and therefore, the loss of income would be at Rs.72,000/- [Rs.12,000/- * 6]. This Court is also inclined to enhance the compensation under the heads Transportation and Extra Nourishment to Rs.10,000/- and Rs.20,000/-. Since the Tribunal has not awarded any compensation under the head attender charges, this Court is inclined to award a sum of Rs.10,000/-. The compensation that has been awarded under the heads medical expenses and pain and suffering does not require the interference of this Court. Further, this Court finds that there is no ground to grant compensation under the head loss of amenities at Rs.5,000/- and the same is hereby set aside.



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10. In the above circumstances, the compensation awarded by the Tribunal under the below mentioned heads is modified as under:

<i>S.No</i>	<i>Head of Compensation</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
1	Disability (Rs.7,000/- * 58%)	2,90,000/-	4,06,000/-
2	Loss of income (Rs.12,000 * 6)	36,000/-	72,000/-
3	Pain and Suffering	1,00,000/-	1,00,000/-
4	Transportation	6,000/-	10,000/-
5	Extra Nourishment	6,000/-	20,000/-
6	Medical Expenses	6,842/-	6,842/-
7	Attender Charges	-	Rs.10,000/-
	Total	Rs.4,49,842/-	Rs.6,24,842/-

11. In the result, this Civil Miscellaneous Appeal is allowed in part and the compensation awarded by the Tribunal at Rs.4,49,842/- is hereby enhanced to Rs.6,24,842/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. The respondent is directed to deposit the entire award amount now determined by this Court along with interest and costs, less the amount already



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deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.2426 of 2017 on the file of the Motor Accident Claims Tribunal/Principal Sub Court, Cuddalore. On such deposit, the appellant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn fixed by the Tribunal by making proper application before the Tribunal. Insofar as the enhanced compensation of Rs.1,75,000/- is concerned, the claimant will not be entitled for interest for the period of delay of 213 days as was ordered by this Court in C.M.P.No.14986 of 2024, dated 18.10.2024. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. No costs.

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NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No
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To

1. The Motor Accidents Claims Tribunal,
Principal Sub Court, Cuddalore.
2. The Section Officer,
V.R. Section,
High Court, Chennai.



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M.DHANDAPANI, J.

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