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CMA.No.1196 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2024

CORAM:

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

CMA.No.1196 of 2023

V.V.Krishnan

... Appellant

-Vs-

1.M.Imran Hussain

2.Bajaj Allianz General Insurance Company Limited,
New No.497 & 498 Old No.276 & 277,
Isana Kattima Building,
5th Floor, Near D G Vaishnav College,
Poonamalle High Road,
Arumbakkam,
Chennai – 600 043.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree in M.C.O.P.No.5268 of 2017 dt.12.10.2022 on the file of the Motor Accident Claims Tribunal/ (II Judge, Court of Small Causes, Chennai).

For Appellant	: Mrs.Ramya V.Rao
For R1	: Notice D/w Vide order dt.9/6/2023
For R2	: Mr.T.K.Premkumar



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JUDGMENT

Challenging the quantum of compensation awarded by the Tribunal in MCOP.No.5268 of 2017, the appellant/claimant has filed the present appeal.

2.The appellant is the claimant in MCOP.No.5268 of 2017 on the file of Motor Accidents Claims Tribunal, II Judge, Court of Small Causes, Chennai. He filed the above said claim petition, claiming a sum of **Rs.20,00,000/-** as compensation for the injuries he has suffered in an accident that took place on 27.03.2017.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of **Rs.5,34,400/-** as compensation to the appellants. The break up is as below;

Sl. No	Description	Amount awarded by Tribunal (Rs)
1.	Towards	90,000/-



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	Disability	
2.	Towards Pain and Sufferings	30,000/-
3.	Towards Loss of earning during Treatment	10,000/-
4.	Towards Medical Expenses	3,59,327/-
5.	Towards Loss of Amenities	30,000/-
6.	Towards Attender Charges	5,000/-
7.	Towards Transportation Charges	5,000/-
8.	Towards Extra Nourishment	5,000/-
	Total	5,34,327/- Rounded off to 5,34,400/-

4. Not being satisfied with the amounts awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5. The learned counsel for the appellant submitted that the accident



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occurred on 27.03.2017. Due to the said accident, the appellant sustained injury. At the time of the accident, he was 52 years old and the medical board assessed his disability as 18%. There is no dispute with regard to the negligence. The only issue raised is with regard to the quantum of compensation awarded by the Tribunal.

6.The learned counsel for the appellant claimant would further submit that no amount of compensation was awarded for the loss of earning. The accident is of the year 2017 and in the claim petition, the income of the victim was mentioned as Rs.10,000/-. The Court below should have ordered for six months as loss of income, since the appellant has spent Rs.3,59,327/- towards medical expenses and he had a fracture at left tibia. Further, no amount was awarded towards future medical expenses and the compensation granted for attender charges is also on the lower side. Hence, prays for additional compensation.

7.She would however, fairly submit that under other heads, the same amount may be confirmed.



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8. Accordingly, the compensation granted under other heads are confirmed.

9. Taking into account the severeness of the injuries and fracture sustained by the claimant, the Tribunal should have considered 5 months as compensation for loss of earning. Therefore, this Court grants Rs.50,000/- towards loss of income for five months as against Rs.10,000/- as awarded by the Tribunal. Further, this Court is inclined to award Rs.50,000/- towards future medical expenses and the amount awarded towards attender charges is also on the lower side and the same is increased to Rs.15,000/-. The compensation now awarded is as below;

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Towards Disability	90,000/-	90,000/-	Confirmed
2.	Towards Pain and Sufferings	30,000/-	30,000/-	Confirmed
3.	Towards Loss of earning during Treatment	10,000/-	50,000/-	Enhanced



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4.	Towards Medical Expenses	3,59,327/-	3,59,327/-	Confirmed
5.	Towards Loss of Amenities	30,000/-	30,000/-	Confirmed
6.	Towards Attender Charges	5,000/-	15,000/-	Enhanced
7.	Towards Transportation Charges	5,000/-	5,000/-	Confirmed
8.	Towards Extra Nourishment	5,000/-	5,000/-	Confirmed
9.	Future Medical Expenses	Nil	50,000/-	Enhanced
	Grand Total	5,34,327/-	6,34,327/-	Enhanced by 1,00,000/-

10.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.5,34,400/- is hereby enhanced to Rs.6,34,327/- 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.**



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5268 of 2017 on the file of the Motor Accidents Claims Tribunal (II Judge, Court of Small Causes), Chennai . 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 **three weeks**. The appellant/claimant shall 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.

11.Accordingly, the Civil Miscellaneous Petition is partly allowed.

No costs.

22.01.2024

Tsg

To



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1.II Judge, Court of Small Causes, Chennai.

2.The Section Officer,

V.R.Section, High Court, Madras.

KRISHNAN RAMASAMY, J.,

Tsg

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