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CMA No.1258 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1258 of 2023

Mr.Ganeshan

.. Appellant

.Vs.

1.G.Venkatesan

2.The Manager

Shriram General Insurance Company Ltd.,
1st Floor, Plot No.5, Ramachandran Street
Saravanan Nagar, Seevaram
Perungudi, Chennai 600 096.

.. Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 10.10.2022 made in MCOP No.8379 of 2015, on the file of the Motor Accident Claims Tribunal / VI Small Causes Court, Chennai.

For Appellant : Mr.V.Tamilamudhu

For Respondents : Mrs.R.Sreevidhya [R2]



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JUDGMENT

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The claimant not being satisfied with the quantum of compensation fixed by the Tribunal in MCOP No.8379 of 2015, dated 10.10.2022, has filed the present appeal seeking for enhancement of compensation.

2.The case of the claimant is that on 09.05.2015, he was riding his two wheeler at Guduvanchery and at about 10.00 p.m., the offending vehicle which was coming from behind was driven in a rash and negligent manner and it dashed on the two wheeler as a result of which, the claimant sustained RTA with multiple injuries/ hemoperitoneum/ hemothorax with avulsion fracture of left olecranon.

3.The claimant underwent treatment as an inpatient for 32 days in two phases. The Medical Board assessed the disability at 23%. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

4.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 offending vehicle.



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5.The Tribunal having rendered the above finding proceeded to fix compensation at Rs.1,62,646/- under various heads as follows:

Sl.No.	Compensation awarded under the head	Amount (in Rs.)
1.	Hospital (treatment and medical expenses)	28,646/-
2.	Transportation Expenses	10,000/-
3.	Extra Nourishment charges	5,000/-
4.	Attender Charges	10,000/-
5.	Damage to cloths	----
6.	Disability	69,000/-
7.	Loss of earnings (3 months x Rs.10,000)	30,000/-
8.	Pain and suffering	10,000/-
	Total	1,62,646/-

6.The above compensation was directed to be paid with interest at the rate of 7.5% p.a.

7.The claimant not being satisfied with the quantum of compensation fixed by the Tribunal has filed the present appeal seeking for enhancement of compensation.

8.Heard Mr.V.Tamilamudhu, learned counsel for the claimant and Mrs.R.Sreevidhya, learned counsel for R2 - Insurance Company.



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9.This Court has carefully considered the submissions made on either side and the materials available on record. This Court has also carefully gone through the award passed by the Tribunal.

10.In the instant case, the accident had taken place in the year 2015. The Tribunal has adopted per percentage method and has fixed only a sum of Rs.3000/- per percentage. This Court is inclined to fix a sum of Rs.5,000/- per percentage. Accordingly, the compensation under the head 'disability' works out to Rs.1,15,000/- [Rs.5000/- * 23].

11.The injury sustained by the claimant has already been taken note of and the claimant was undergoing treatment for nearly 32 days and he also underwent an operation. In view of the same, this Court is enhancing the compensation under the head of 'transportation expenses', 'extra nourishment', 'attender charges' and 'pain and suffering' to Rs.20,000/-, 25,000/-, 25,000/- and 25,000/- respectively.

12.Insofar as 'loss of income', the nature of injury sustained by the claimant would not have permitted him to work as driver for atleast four months. Therefore, this Court is inclined to fix a sum of Rs.40,000/- under the head 'loss of come' [Rs.10,000/- x 4].



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13.The compensation that has been granted under the other heads are reasonable and it does not require the interference of this Court.

14.In the light of the above discussion, the compensation granted by the Tribunal is modified as follows:

Sl.No.	Compensation awarded under the head	Amount (in Rs.)
1.	Hospital (treatment and medical expenses)	28,646/-
2.	Transportation Expenses	20,000/-
3.	Extra Nourishment charges	25,000/-
4.	Attender Charges	25,000/-
5.	Disability [23 * Rs.5,000]	1,15,000/-
6.	Loss of earnings (4 months x Rs.10,000)	40,000/-
7.	Pain and suffering	25,000/-
	Total	2,78,646/-

12.The compensation awarded by the Tribunal at Rs.1,62,646/- is enhanced to Rs.2,78,646/-. The 2nd respondent – Insurance Company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest @ 7.5% p.a., from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. Insofar as the enhanced



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compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant/claimant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

In the result, this Civil Miscellaneous Appeal is partly allowed. No costs.

31.07.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
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To

Motor Accident Claims Tribunal
VI Small Causes Court, Chennai.



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N. ANAND VENKATESH., J

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