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C.M.A.No.3354 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 20.12.2024**

**CORAM :**

**THE HONOURABLE MR. JUSTICE M. DHANDAPANI**

**C.M.A.No.3354 of 2024**

Balaji

... Appellant

Vs.

1.P.Subramani

2.The Oriental Insurance Co. Ltd,

No.159, AA Complex, 1<sup>st</sup> Floor, Kumaran Road,  
Tirupur – 641 601.

... Respondents

**Prayer:** Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 for enhancement of the compensation in the award dated 03.01.2023 made in M.C.O.P.No.1377 of 2018 on the file of the Exclusive MACT, Tirupur.

For Appellant : Mr.Ma.P.Thangavel

For Respondents : Notice dispensed with [R1]  
Mr.J.Chandran [R2]

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**JUDGMENT**

The above appeal is filed by the petitioner/claimant seeking an enhancement of the compensation awarded by the Exclusive Motor



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Accident Claims Tribunal, Tirupur in M.C.O.P.No.1377 of 2018 dated 03.01.2023.

2. In view of the judgment, which is going to be passed in this appeal, notice to the 1<sup>st</sup> respondent is dispensed with.

3. The case of the appellant is that, on 27.04.2018 at about 07.15 hours, when he was riding a TVS Jupiter two wheeler bearing Regn.No.TN-39-BR-1369 near V.Mettupalayam bus stop, Vinayagar Kovil Four road junction, the 1<sup>st</sup> respondent driven the auto owned by him bearing Regn.No.TN-39-BA-3087, insured with the 2<sup>nd</sup> respondent, in a very rash and negligent manner and hit against the appellant, thereby, he sustained both bone fracture on his right leg, 3<sup>rd</sup>, 4<sup>th</sup> metacarpal bone fracture on his right hand and abrasions all over the body. 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.

4. Before the Tribunal, the appellant had examined himself as P.W.1 and marked 14 documents viz., Ex.P.1 to Ex.P.14. On the side of the



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respondents, Dr.Sivakumar was examined as R.W.1 and no documents were marked. Apart from that, three third party documents were marked as Ex.X.1 to Ex.X.3. After adjudication, the Tribunal awarded a sum of Rs.5,73,214/- as compensation to the appellant. Not satisfied with the same, the appellant has preferred the present appeal seeking enhancement.

5. Learned counsel appearing for the appellant submitted that, though the Medical Board had assessed the disability of the appellant at 70%, however, the Tribunal had fixed the disability at 20%, which is wholly unsustainable, which requires to be re-considered by this court. Further, he submitted that, at the relevant point of time, per percentage of disability is Rs.7,000/-, however, the Tribunal had awarded a sum of Rs.1,00,000/- by fixing a sum of Rs.5,000/- per percentage of disability and disability at 20%, which is not sustainable and the same requires to be re-considered by this Court. He further submitted that the other heads awarded by the Tribunal is meagre, which also requires to be enhanced. Accordingly, he prays for appropriate enhancement in favour of the appellant.

6. Learned counsel appearing for the second respondent/Insurance Company submitted that, the amount of Rs.5,000/-



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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.

7. 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.

8. 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.X.1, which is the disability certificate issued by the Medical Board and the same reveals that the appellant had suffered disability of 70%. Without considering the said certificate, the Tribunal, had erroneously fixed the percentage of disability at 20% and had erroneously adopted a sum of Rs.5,000/- per percentage of disability and awarded a sum of Rs.1,00,000/- towards disability. When the Medical Board had assessed the percentage of disability suffered by the appellant, the Tribunal ought not to have re-assessed the same and as per the existing law at the relevant point of time,



the Tribunal ought to have fixed a sum of Rs.7,000/- per percentage of disability. Hence, this Court is inclined to accept the disability certificate issued by the Medical Board and fix the percentage of disability at 70% and fix a sum of Rs.7,000/- per percentage of disability. Therefore, the compensation awarded under the head of disability stands enhanced to a sum of Rs.4,90,000/- ( $70 \times \text{Rs.7,000/-} = \text{Rs.4,90,000/-}$ ).

9. Further, the Tribunal had awarded a sum of Rs.15,000/- towards transportation; Rs.30,000/- towards extra nourishment; Rs.50,000/- towards attender charges; Rs.5,000/- towards damages to clothes and articles; Rs.2,73,214/- towards medical bills and Rs.1,00,000/- towards pain and suffering and loss of amenities. This Court finds that the compensation awarded under the heads transportation, extra nourishment, medical bills and pain and suffering and loss of amenities are just and reasonable and the same does not require any interference. However, insofar as the compensation awarded towards attender charges and damages to clothes and articles are concerned, this Court feels that the same is on the higher side and accordingly, the compensation awarded under the said heads are reduced to a sum of Rs.20,000/- and Rs.1,000/- respectively. Further, no compensation has been granted under the head of loss of earning during



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treatment period, hence, this court grants a sum of Rs.20,000/- under the said head.

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<br/>(Amount in Rs.)</i> | <i>Awarded by this Court<br/>(Amount in Rs.)</i> |
|---------------|------------------------------------------|----------------------------------------------------|--------------------------------------------------|
| 1             | Disability (70 x Rs.7,000/-)             | <b>1,00,000/-</b>                                  | <b>4,90,000/-<br/>(enhanced)</b>                 |
| 2             | Transportation                           | 15,000/-                                           | 15,000/-                                         |
| 3             | Extra nourishment                        | 30,000/-                                           | 30,000/-                                         |
| 4             | Attender charges                         | <b>50,000/-</b>                                    | <b>20,000/-<br/>(reduced)</b>                    |
| 5             | Damage to Clothes and articles           | <b>5,000/-</b>                                     | <b>1,000/-<br/>(reduced)</b>                     |
| 6             | Medical bills                            | 2,73,214/-                                         | 2,73,214/-                                       |
| 7             | Pain and Suffering and loss of amenities | 1,00,000/-                                         | 1,00,000/-                                       |
| 8.            | Loss of earning during treatment period  | -                                                  | <b>20,000/-</b>                                  |
|               | <b>Total</b>                             | <b>5,73,214/-</b>                                  | <b>9,49,214/-</b>                                |

11. Accordingly, this Civil Miscellaneous Appeal is partly allowed and the impugned award is modified, enhancing the compensation amount from **Rs.5,73,214/-** to **Rs.9,49,214/-**. The second respondent/Insurance Company is directed to deposit the compensation



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amount, awarded by this Court, to the credit of M.C.O.P.No.1377 of 2018 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 six weeks (6) 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. It is made clear that the appellant will not entitled to any interest for the delay period. There shall be no order as to costs in the present appeal.

**20.12.2024**

Index : Yes / No  
Speaking order / Non-speaking order  
Neutral Citation Case : Yes / No  
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To  
The Exclusive Motor Accident Claims Tribunal, Tirupur.



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**M.DHANDAPANI, J.**

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