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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA Nos. 1754, 1679, 1890, 1607, 1568, 1540, 1605 and 2000 of 2024

Kumar ... Appellant
in CMA No.1754 of 2024

Saroja ... Appellant
in CMA No.1679 of 2024

Lalitha @ Lalithambal ... Appellant
in CMA No.1890 of 2024

Subramani ... Appellant
in CMA No.1607 of 2024

Saraswathi ... Appellant
in CMA No.1568 of 2024

Vasuki ... Appellant
in CMA No.1540 of 2024

Jayapriya ... Appellant
in CMA No.1605 of 2024

Amutharaj ... Appellant
in CMA No.2000 of 2024

.VS.

1.Suresh



2.Paramasivam

3.The United India Insurance Co., Ltd.,
D.No.5-B/11, State Bank of India Upstairs,
Salem Main Road, Rasipuram,
Namakkal District.

..Respondents
in all CMAs

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the order in MCOP No.22, 23, 24, 25, 26, 27, 28 and 29 of 2019, dated 30.01.2024, on the file of the Motor Accident Claims Tribunal, Subordinate Judge Court, Omalur.

For Appellants : Mr.T.S.Arthanareeswaran
in all CMAs

For Respondents : Ms.I.Malar for R3
in all CMAs

JUDGMENT

All these appeals arise out of a common Award passed by the Tribunal for a single accident and hence, this common judgment is passed.

2.The claimants not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP Nos.22 to 29 of 2019, dated 30.01.2024, have filed these appeals seeking for enhancement of compensation.



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3.The case of the claimants is that on 06.09.2018, they were travelling a TATA Maxi Cab at Irumbalai-Tharamangalam Road and at about 5.30 a.m., this Maxi Cab was driven in a rash and negligent manner and as a result, the driver lost control and the vehicle fell in to a pit. The claimant in MCOP No.22 of 2019 sustained RTA with fracture left distal radius. He underwent treatment as an inpatient for five days. The Medical Board assessed the disability at 5%. The claimant in MCOP No.23 of 2019 sustained RTA with Fracture D11/D12 Vertebra. He underwent treatment as an inpatient for seven days. The Medical Board assessed the disability at 10%. The claimant in MCOP No.24 of 2019 sustained simple injuries and underwent treatment as an inpatient from 06.09.2018 to 10.09.2018. The claimant in MCOP No.25 of 2019 sustained simple injuries and underwent treatment as an inpatient from 06.09.2018 to 09.09.2018. The claimant in MCOP No.26 of 2019 sustained simple injuries and underwent treatment as an inpatient from 06.09.2018 to 12.09.2018. The claimant in MCOP No.27 of 2019 sustained RTA with right hand bennett's fracture. He underwent treatment as an inpatient from 06.09.2018 to 10.09.2018. The Medical Board assessed the disability at 5%. The claimant in MCOP No.28 of 2019 sustained left hand little finger (F5) fracture MPX. He underwent treatment as an inpatient from 06.09.2018 to 10.09.2019. The Medical Board assessed the disability at 5%. The claimant



in MCOP No.29 of 2019 sustained crush injury on the left leg and open fracture left distal radius. He underwent treatment as an inpatient from 08.09.2018 to 28.09.2018. He underwent treatment for ORIF with plating/K wire left distal radius, wound debridement and external fixator and left leg vascular PRA, nerve PTN repair. Ultimately, his left leg below the knee was amputated in an operation done on 13.09.2018. The Medical Board assessed the disability at 75%. It is under these circumstances, the claim petitions 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 Maxi Cab. Having come to such a conclusion, the Tribunal fixed the total compensation under various heads as follows:



In MCOP No.22 of 2019:

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S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Disability (5% x Rs.5000)	25,000
2.	Attender Charges	1,800
3.	Loss of Amenities	10,000
4.	Towards Pain and Sufferings	10,000
5.	Extra Nourishment & Transportation	10,000
6.	Damages to clothes	1,000
7.	Loss of Income for 5 months	40,000
8.	Medical Bills	45,848
	Total	1,43,648
	Rounded off	1,43,700

In MCOP No.23 of 2019:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Disability (5% x Rs.5000)	50,000
2.	Attender Charges	2,450
3.	Loss of Amenities	15,000
4.	Towards Pain and Sufferings	15,000
5.	Extra Nourishment & Transportation	10,000
6.	Damages to clothes	1,000
7.	Loss of Income for 5 months	40,000
8.	Medical Bills	26,526



S.No	Compensation awarded under the head	Amount (in Rs.)
	Total	1,59,976
	Rounded off	1,60,000

In MCOP No.24 of 2019:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Simple Injuries	30,000
2.	Medical Bills	34,043
	Total	64,043
	Rounded off	64,100

In MCOP No.25 of 2019:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Simple Injuries	30,000
2.	Medical Bills	14,457
	Total	44,457
	Rounded off	44,500

In MCOP No.26 of 2019:



S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Simple Injuries	30,000
2.	Medical Bills	23,763
	Total	53,763
	Rounded off	53,800

In MCOP No.27 of 2019:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Disability (5% x Rs.5000)	25,000
2.	Attender Charges	1,800
3.	Loss of Amenities	10,000
4.	Towards Pain and Sufferings	10,000
5.	Extra Nourishment & Transportation	10,000
6.	Damages to clothes	1,000
7.	Loss of Income for 5 months	40,000
8.	Medical Bills	41,471
	Total	1,39,271
	Rounded off	1,39,300

In MCOP No.28 of 2019:



S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Disability (5% x Rs.5000)	25,000
2.	Attender Charges	1,800
3.	Loss of Amenities	10,000
4.	Towards Pain and Sufferings	10,000
5.	Extra Nourishment & Transportation	10,000
6.	Damages to clothes	1,000
7.	Loss of Income for 5 months	40,000
8.	Medical Bills	39,786
	Total	1,37,586
	Rounded off	1,37,600

In MCOP No.29 of 2019:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Permanent Disability @ 75% (Rs.6500+Rs.650 x 12 x 11 x 75/100)	7,07,850
2.	Attender Charges (21 days)	7,350
3.	Loss of Amenities	20,000
4.	Towards Pain and Sufferings	20,000
5.	Extra Nourishment & Transportation	10,000
6.	Damages to clothes	1,000
7.	Medical Bills	3,97,822
	Total	11,64,022
	Rounded off	11,64,500



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5.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

6.The claimants not being satisfied with the quantum of compensation awarded by the Tribunal have filed the present appeals before this Court seeking for enhancement of compensation.

7.Heard Mr.T.S.Arthanareeswaran, learned counsel appearing on behalf of the appellant and Ms.I,Malar, learned counsel appearing on behalf of the 3rd respondents.

8.This Court has carefully considered the submissions made on either side and also the materials available on record.

9.Insofar as CMA No.1754 of 2024 which pertains to MCOP No.22 of 2019, this Court is inclined to enhance the compensation under the head of disability. The Tribunal has only fixed Rs.5,000/- per percentage and the same is enhanced to Rs.7,000/- per percentage, considering the fact that the



accident had taken place in the year 2018. Thus, a sum of Rs.35,000/- (Rs.7,000/- x 5%) is enhanced under the head of disability. The claimant has undergone treatment as an inpatient for five days. Therefore, the attender charges is enhanced to Rs.2,500/-. The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.

10.Insofar as CMA No.1679 of 2024 which pertains to MCOP No.23 of 2019, this Court is inclined to enhance the compensation under the head of disability. The Tribunal has only fixed Rs.5,000/- per percentage and the same is enhanced to Rs.7,000/- per percentage, considering the fact that the accident had taken place in the year 2018. Thus, a sum of Rs.70,000/- (Rs.7,000/- x 10%) is under the head of disability. The claimant has undergone treatment as an inpatient for seven days. Therefore, the attender charges is enhanced to Rs.3,500/-. The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.

11.Insofar as CMA Nos.1890, 1607 and 1568 of 2024 which pertains to MCOP Nos.24, 25 and 26 of 2019, this Court finds that the claimants had only sustained simple injuries and the Tribunal has granted reasonable



compensation which does not require the interference of this Court.

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12.Insofar as CMA No.1540 of 2024 which pertains to MCOP No.27 of 2019, this Court is inclined to enhance the compensation under the head of disability. The Tribunal has only fixed Rs.5,000/- per percentage and the same is enhanced to Rs.7,000/- per percentage, considering the fact that the accident had taken place in the year 2018. Thus, a sum of Rs.35,000/- (Rs.7,000/- x 5%) is under the head of disability. The claimant has undergone treatment as an inpatient for five days. Therefore, the attender charges is enhanced to Rs.2,500/-. The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.

13.Insofar as CMA No.1605 of 2024 which pertains to MCOP No.28 of 2019, this Court is inclined to enhance the compensation under the head of disability. The Tribunal has only fixed Rs.5,000/- per percentage and the same is enhanced to Rs.7,000/- per percentage, considering the fact that the accident had taken place in the year 2018. Thus, a sum of Rs.35,000/- (Rs.7,000/- x 5%) is under the head of disability. The claimant has undergone treatment as an inpatient for five days. Therefore, the attender charges is enhanced to Rs.2,500/-. The compensation that has been fixed under the other



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heads are reasonable and does not require the interference of this Court.

14.Insofar as CMA No.2000 of 2024 which pertains to MCOP No.29 of 2019, it is seen that there was amputation below the left knee due to the injuries sustained by the claimant. The claimant has undergone treatment as an inpatient for nearly 21 days. The claimant was aged about 55 years and he was working as a Watchman. The Tribunal has fixed a sum of Rs.6,500/- per month as notional monthly income. This Court is inclined to increase the notional monthly income to Rs.10,000/- per month.10% can be added towards future prospects considering the age of the claimant. Thus, the notional monthly income can be fixed at Rs.11,000/- (Rs.10,000 + Rs.1,000 = Rs.11,000). The compensation under the head of loss of income is calculated as follows:

$$\text{Rs.11,000} \times 12 \times 11 \times 75/100 = \text{Rs.10,89,000/-}$$

15.Considering the nature of injuries sustained by the claimant, the consequence of such injuries and also the agony that would have been undergone by the claimant, this Court is inclined to enhance the compensation under the head of attender charges, loss of amenities, pain and sufferings and



extra nourishment to Rs.30,000, Rs.25,000, Rs.1,00,000 and Rs.30,000 respectively. The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.

16. In the light of the above discussion, the compensation in each appeal is fixed as follows:

In CMA No.1754 of 2024:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Disability (5% x Rs.7000)	35,000
2.	Attender Charges	2500
3.	Loss of Amenities	10,000
4.	Towards Pain and Sufferings	10,000
5.	Extra Nourishment & Transportation	10,000
6.	Damages to clothes	1,000
7.	Loss of Income for 5 months	40,000
8.	Medical Bills	45,848
	Total	1,54,348
	Rounded off	1,54,400

In CMA No.1679 of 2024:



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S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Disability (5% x Rs.5000)	70000
2.	Attender Charges	3500
3.	Loss of Amenities	15,000
4.	Towards Pain and Sufferings	15,000
5.	Extra Nourishment & Transportation	10,000
6.	Damages to clothes	1,000
7.	Loss of Income for 5 months	40,000
8.	Medical Bills	26,526
	Total	1,81,026
	Rounded off	1,81,100

In CMA No.1540 of 2024:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Disability (5% x Rs.5000)	35000
2.	Attender Charges	2500
3.	Loss of Amenities	10,000
4.	Towards Pain and Sufferings	10,000
5.	Extra Nourishment & Transportation	10,000
6.	Damages to clothes	1,000
7.	Loss of Income for 5 months	40,000



S.No	Compensation awarded under the head	Amount (in Rs.)
8.	Medical Bills	41,471
	Total	1,49,971
	Rounded off	1,50,000

In CMA No.1605 of 2024:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Disability (5% x Rs.5000)	35000
2.	Attender Charges	2500
3.	Loss of Amenities	10,000
4.	Towards Pain and Sufferings	10,000
5.	Extra Nourishment & Transportation	10,000
6.	Damages to clothes	1,000
7.	Loss of Income for 5 months	40,000
8.	Medical Bills	39,786
	Total	1,48,286
	Rounded off	1,48,500

In CMA No.2000 of 2024:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Permanent Disability @ 75% (Rs.6500+Rs.650 x 12 x 11 x 75/100)	10,89,000
2.	Attender Charges (21 days)	30000



S.No	Compensation awarded under the head	Amount (in Rs.)
3.	Loss of Amenities	25000
4.	Towards Pain and Sufferings	1,00,000
5.	Extra Nourishment & Transportation	30000
6.	Damages to clothes	1,000
7.	Medical Bills	3,97,822
	Total	16,72,822
	Rounded off	16,73,000

17.In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:

(a) The compensation awarded by the tribunal in MCOP No.22 of 2019 (CMA No.1754 of 2024) at Rs.1,43,700/- is enhanced to Rs.1,54,400/-.

(b) The compensation awarded by the tribunal in MCOP No.23 of 2019 (CMA No.1679 of 2024) at Rs.1,60,000/- is enhanced to Rs.1,81,100/-.

(c) The compensation awarded by the tribunal in MCOP No.27 of 2019 (CMA No.1540 of 2024) at Rs.1,39,300/- is enhanced to Rs.1,50,000/-.



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(d) The compensation awarded by the tribunal in MCOP No.28 of 2019 (CMA No.1605 of 2024) at Rs.1,37,600/- is enhanced to Rs.1,48,500/-.

(e) The compensation awarded by the tribunal in MCOP No.29 of 2019 (CMA No.2000 of 2024) at Rs.11,64,500/- is enhanced to Rs.16,73,000/-.

18.In the result, the Civil Miscellaneous Appeal in CMA Nos.1754, 1679, 1540, 1605 and 2000 of 2024 are partly allowed. The respondent insurance company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 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 compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimant.

19.Insofar as CMA Nos.1568, 1607, 1890 of 2024 , the award passed by the Tribunal is confirmed and accordingly, these civil miscellaneous



appeals stands dismissed. There shall be a direction to the respondent Insurance Company to deposit the entire compensation, less the amount already deposited, together with interest at 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 judgement.

20. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. The Tribunal has already ordered pay and recovery. Therefore, it goes without saying that whatever enhanced compensation is paid by the Insurance Company can be recovered from the owner of the vehicle. No Costs.

31.07.2024

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

The Motor Accident Claims Tribunal, Subordinate Judge Court, Omalur.



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N. ANAND VENKATESH., J

SSR

**CMA Nos. 1754, 1679, 1890, 1607, 1568,
1540, 1605 and 2000 of 2024**

31.07.2024