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CMA.No.1486 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.1486 of 2024

Gurumurthy

.... Appellant

vs.

1. Sudhakar

2. Reliance General Insurance Company Limited

No.6, Haddows Road, 6th Floor

Nungambakkam, Chennai 600 006.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 17.12.2020 in M.A.C.T.O.P.7187/2015 on the file of the Motor Accident Claims Tribunal, V Court of Small Causes, Chennai.

For Appellant : Mr. K.V. Muhu Visakan

R1 : Notice dispensed with

For R2 : Mr. P. Suresh Srinivasan



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J U D G M E N T

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The appellant is the claimant in M.A.C.T.O.P.7187/2015 on the file of the Motor Accident Claims Tribunal, V Court of Small Causes, Chennai, and he filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 and Rule 3 of M.A.C.T Rules, seeking compensation of Rs.10,00,000/- for the injuries sustained by him in a road accident that took place on 14.08.2015.

2. The case of the claimant is that on 14.08.2015, he was riding his motorcycle bearing Registration Number TN 05 AC 9997, on Josiyar Street, New Colony, Nungambakkam and at about 17.00 hours, a speeding car bearing Registration Number TN-01-AV-9822, belonging to the first respondent, hit his two wheeler as a result of which he fell down and sustained injuries all over his body. He was immediately rushed to a hospital, where he took treatment as an outpatient.

2.1. According to the claimant, the rash and negligent driving of the driver of the of the car bearing Registration Number TN-01-AV-9822 was the cause of the accident and that since the said car was insured with



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the second respondent, the Reliance General Insurance Company Limited, Chennai, the owner and the insurer are jointly and severally liable to pay compensation to him.

3. In the Tribunal the owner of the car remained absent and was set *ex parte*. The second respondent insurance company resisted the claim petition on all the grounds available to the insurer under Section 170 of the Motor Vehicles Act.

4. The Tribunal, after analysing the evidence on record, fastened negligence on the part of the driver of the car bearing Registration Number TN-01-AV-9822 and further held that the owner of the car and the insurer are jointly and severally liable to pay compensation of Rs.1,60,400/- to the claimant together with interest at the rate of 7.5% per annum from the date of the petition till the date of realisation, vide its orders dated 17.12.2020.



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5. Aggrieved over the quantum of compensation awarded by the Tribunal, the claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

6. Heard Mr.K.V. Muthu Visakan, learned counsel for the appellant and Mr.P. Suresh Srinivasan, learned counsel for the second respondent/Insurance Company.

7. Mr.K.V. Muthu Visakan, learned counsel for the appellant contended that the Award passed by the Tribunal is not commensurate with the injuries sustained by the claimant. He, therefore, prayed for enhancement of compensation.

8. Per contra, Mr.P. Suresh Srinivasan, learned counsel appearing second respondent/Insurance Company contended that the Tribunal, after analysing the evidence on record, had awarded just compensation and therefore the same need not be disturbed in the present appeal.



9. A perusal of the records shows that the claimant sustained fracture on his right leg. The Regional Medical Board attached to Kilpauk Medical College Hospital, Chennai, assessed the partial permanent disability of the claimant as 23%. The Tribunal has awarded a sum of Rs.69,000/- towards partial permanent disability by fixing a sum of Rs.3,000/- per percentage of disability. Considering the age of the claimant and the year of accident, a sum of Rs.4,000/- per percentage of disability is awarded. Hence, a sum of Rs.92,000/- is awarded towards partial permanent disability.

9.1. According to the claimant he was working as an Office Assistant in a private concern earning a sum of Rs.15,000/- per month. Since no satisfactory evidence was adduced by him to substantiate the income, the Tribunal fixed the notional monthly income of the claimant as Rs.10,000/-. The accident took place in the year 2015 and in the circumstances, fixing the notional monthly income as Rs.12,000/- would meet the ends of justice. On account of the accident, the claimant would have been out of action atleast for three months and therefore, a sum of Rs.36,000/- (12,000x3) is awarded towards loss of income.



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9.2. The following tabular column would show the amount awarded by the Tribunal and the enhanced amount awarded by this Court under various heads.

<i>S.No.</i>	<i>Description</i>	<i>Amount awarded by Tribunal (Rs.)</i>	<i>Amount awarded by this Court (Rs.)</i>
1.	Pain and sufferings	20,000/-	20,000/-
2.	Extra nourishment	20,000/-	20,000/-
3.	Partial Permanent disability	69,000/- (23x3000)	92,000/- 23x4000)
4.	Medical bills	382/-	382/-
5.	Loss of Amenities	20,000/-	20,000/-
6.	Damages to clothes	1,000/-	1,000/-
7.	Loss of income for 3 months	30,000/- (10000x3)	36,000/- (12000x3)
	Total	1,60,382/- rounded off to 1,60,400/-	1,89,382/-

9.3. Thus, the compensation awarded by the Tribunal is enhanced from Rs.1,60,400/- to Rs.1,89,382/- that would carry interest at the rate of 7.5% per annum.



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10. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed. No costs.
- ii. The compensation awarded by the Tribunal is enhanced from Rs.1,60,400/- to Rs.1,89,382/-.
- iii. The appellant / claimant is directed to pay court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after receipt of Court fee.
- iv. The second Respondent, the Reliance General Insurance Company Limited, Chennai, is directed to deposit the enhanced compensation amount of Rs.1,89,382/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.A.C.T.O.P. 7187/2015 on the file of the Motor Accident Claims Tribunal, V Court of Small Causes, Chennai, within a period of four weeks from



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the date of receipt of a copy of this order.

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- v. On such deposit being made, the appellant/claimant is at liberty to withdraw the same, after following due process of law.

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Index : Yes/No
Speaking/Non-speaking order
bga
To

1. Motor Accident Claims Tribunal, V Court of Small Causes, Chennai.
2. Reliance General Insurance Company Limited
No.6, Haddows Road, 6th Floor
Nungambakkam, Chennai 600 006.
2. The Section Officer, VR Section, Madras High Court, Chennai.



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R.HEMALATHA, J.

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