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Civil Miscellaneous Appeal No.1558 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1558 of 2024

Mani
S/o.Krishnan

... Appellant

Vs.

1.J.Kala
W/o.Jayapal

2.United India Insurance Co. Ltd.,
T.P.Cell : No.134, 4th Floor,
Greens Road, Chennai - 600 006.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 24.01.2024 made in M.C.O.P.No.6464 of 2019 on the file of Motor Accident Claims Tribunal, III Court of Small Causes, Chennai.

For Appellant : Mr.D.Poovannan

For Respondents : Mr.J.Chandran [R2]



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JUDGMENT

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The appellant/claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai, in M.C.O.P.No.6464 of 2019, dated 24.01.2024, has filed this appeal.

2. The case of the claimant is that he was waiting at Thirumazhisai Sivan Temple bus stop on 10.10.2019 and at about 8.30 hours, the offending vehicle, a two wheeler, was ridden in a rash and negligent manner and it dashed on the claimant as a result of which the claimant suffered right femur intertrochanteric fracture. The claimant underwent treatment as an inpatient from 10.10.2019 to 25.10.2019 and a surgery was also performed. The Medical Board assessed the disability at 30%. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking compensation.

3. 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 rider of the two wheeler. Having reached such a finding, the Tribunal proceeded to fix the total compensation at Rs.2,27,800/- under various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Disability	1,50,000/-
2.	Loss of earnings	28,000/-
3.	Pain and sufferings	20,000/-
4.	Extra nourishment	10,000/-
5.	Loss of amenities	10,000/-
6.	Attender charges	4,800/-
7.	Transportation	4,000/-
8.	Damages to clothes	1,000/-
	Total	2,27,800/-

The above compensation was directed to be paid along with interest at 7.5% p.a.

4. The claimant, not being satisfied with the quantum of compensation awarded by the Tribunal, has filed this appeal seeking compensation.

5. Heard Mr.D.Poovannan, learned counsel for appellant/claimant



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and Mr.J.Chandran, learned counsel for second respondent.

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6. This Court carefully considered the submissions made on either side and the materials available on record.

7. This Court also carefully went through the award passed by the Tribunal.

8. In the instant case, the accident had taken place in the year 2019. However, the Tribunal, while adopting the per percentage method, has fixed only a sum of Rs.5,000/- per percentage for granting compensation under the head 'disability'. Considering the judgment of the Division Bench of this Court in ***C.M.A.No.3334 of 2021, dated 15.06.2022 [Future General India Insurance Company Limited v. Manivannan and others]***, this Court is inclined to fix a sum of Rs.7,000/- per percentage. Accordingly, the compensation under the head 'disability' is fixed at Rs.2,10,000/- (7000 * 30).

9. The claimant came up with a case that he was a mason and he



was earning a sum of Rs.18,000/- p.m. and due to the injuries sustained by him, he was deprived of his earnings. The Tribunal, considering this stand taken by the claimant, fixed the compensation under the head 'loss of earnings' at Rs.28,000/- [14,000 * 2]. Considering the injuries sustained by the claimant and the treatment undergone by him and also considering the avocation of the claimant, this Court is inclined to grant compensation under the head 'loss of earnings' at Rs.56,000/- [14000 * 4].

10. This Court is also inclined to enhance the compensation under the heads 'pain and suffering', 'transportation', 'extra nourishment' and 'attender charges' to Rs.25,000/-, Rs.15,000/-, Rs.20,000/- and Rs.10,000/- respectively.

11. The compensation granted under the other heads is justified and does not require the interference of this Court.

12. For the foregoing reasons, the compensation awarded by the Tribunal is modified as follows:



<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount awarded by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	Disability	1,50,000/-	2,10,000/-
2.	Loss of earnings	28,000/-	56,000/-
3.	Pain and sufferings	20,000/-	25,000/-
4.	Extra nourishment	10,000/-	20,000/-
5.	Loss of amenities	10,000/-	10,000/-
6.	Attender charges	4,800/-	10,000/-
7.	Transportation	4,000/-	15,000/-
8.	Damages to clothes	1,000/-	1,000/-
	Total	2,27,800/-	3,47,000/-

13. The compensation awarded by the Tribunal at Rs.2,27,800/- is enhanced to Rs.3,47,000/-. The second respondent insurance company is directed to deposit the compensation awarded by this Court, 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 six (6) 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 appellant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



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

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Speaking Judgment/Non-speaking Judgment
Index :Yes/No
Neutral citation: Yes/No
gm

To
The Motor Accident Claims Tribunal,
III Court of Small Causes,
Chennai.

N.ANAND VENKATESH, J.

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