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C.M.A.No.3018 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3018 of 2024

Noori

... Appellant

Vs.

1.Narendran

2.The New India Assurance Company Limited,
No.232, NSC Bose Road, LIC Building,
6th Floor, Chennai – 600 001.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation amount made in judgment and decree dated 21.02.2024 made in M.C.O.P.No.567 of 2021 on the file of the Motor Accidents Claims Tribunal, in the Special Sub Court No.II, Court of Small Causes, Chennai by allowing this civil miscellaneous appeal.

For Appellant : Mr.V.Tamilamudhu
For Respondents : Mr.K.Vinod

J U D G M E N T

This appeal has been filed against the judgment and decree dated 21.02.2024 passed by the Motor Accidents Claims Tribunal,



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Special Sub Court No.II, Court of Small Causes, Chennai, in
M.C.O.P.No.567 of 2021.

2.The learned counsel appearing for the appellant submitted that on 18.11.2020, at about 18.30 hours, the appellant was walking at G.S.T. Road near Maraimalai Nagar Dancy Bus Stop. At that time, an Ashok Leyland Van bearing Registration No.TN-87-5600 owned by the first respondent and insured with the second respondent came in a rash and negligent manner and hit the appellant, due to which, the appellant sustained injuries.

3.The learned counsel appearing for the appellant further submitted that thereafter, the injured claimant/ appellant filed claim petition before the Tribunal, claiming compensation of Rs.20 Lakhs. After adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.1,78,000/- with interest at the rate of 7.5% p.a. from the date of petition i.e., 22.01.2021 till the date of payment and costs and directed the second respondent to deposit the compensation. Aggrieved by the same, the appellant claimant has filed this appeal for enhancement in compensation.



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4.The learned counsel appearing for the appellant further submitted that the appellant has filed this appeal questioning the quantum of compensation awarded by the Tribunal. The learned counsel further submitted that the Medical Board assessed the disability of the appellant as 26% and at the relevant point of time Rs.9,000/- per percentage of disability was awarded, however, the Tribunal awarded only a sum of Rs.5,000/- per percentage of disability and awarded meagre compensation for disability which is not sustainable one and further submitted that the compensation awarded under the other heads also are meagre.

5.The learned counsel appearing for the second respondent Insurance Company submitted that the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference.

6.Heard the learned counsel appearing for the appellant claimant as well as the learned counsel appearing for the second respondent Insurance Company and perused the materials available on record.



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7.This appeal has been filed only questioning the quantum of compensation awarded by the Tribunal. Hence, there is no need for any discussion with regard to negligence aspect.

8.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.1,30,000/- for part disability, Rs.20,000/- for pain and sufferings, Rs.10,000/- for loss of income, Rs.5,000/- for medical expenses, Rs.1,000/- for attender charges, Rs.2,000/- for transportation, Rs.5,000/- for loss of amenities, Rs.5,000/- for extra nourishment and arrived at a total compensation of Rs.1,78,000/- with interest at the rate of 7.5% p.a. from the date of petition i.e., 22.01.2021 till the date of payment.

9.The Medical Board assessed the disability of the injured claimant as 26% disability. At the relevant point of time Rs.9,000/- per percentage of disability was awarded. Hence, the amount awarded for disability works out to Rs.2,34,000/- [26% X Rs.9,000/- = Rs.2,34,000/-].

10.The amount awarded under the heads pain and sufferings, attendant charges and extra nourishment, in the opinion of this Court



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are low and this Court is inclined to enhance the amount awarded under the said head. Accordingly, the amount awarded for pain and sufferings is enhanced to Rs.50,000/- from Rs.20,000/-, the amount awarded for attendant charges is enhanced to Rs.10,000/- from Rs.1,000/-, the amount awarded for extra nourishment is enhanced to Rs.20,000/- from Rs.5,000/-. The amount awarded under the head loss of amenities, in the opinion of this Court is not necessary and the same is deleted. The amount awarded under the other heads, in the opinion of this Court are just and reasonable and the same are confirmed.

11.Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Part Disability	Rs.1,30,000/-	Rs.2,34,000/-
2.	Pain and sufferings	Rs. 20,000/-	Rs. 50,000/-
3.	Extra nourishment	Rs. 5,000/-	Rs. 20,000/-
4.	Transportation	Rs. 2,000/-	Rs. 2,000/-
5.	Attendant charges	Rs. 1,000/-	Rs. 10,000/-
6.	Loss of income	Rs. 10,000/-	Rs. 10,000/-
7.	Medical expenses	Rs. 5,000/-	Rs. 5,000/-
8.	Loss of amenities	Rs. 5,000/-	---
	Total	Rs.1,78,000/-	Rs.3,31,000/-



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12.The appellant claimant is entitled to total compensation of Rs.3,31,000/- along with interest at the rate of 7.5% p.a. from the date of petition i.e., 22.01.2021 till the date of payment.

13.The civil miscellaneous appeal is partly allowed. The judgment and decree dated 21.02.2024 passed by the Motor Accidents Claims Tribunal, Special Sub Court No.II, Court of Small Causes, Chennai, in M.C.O.P.No.567 of 2021, is modified to the above extent.

14.The second respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such deposit being made, the appellant/ claimant is permitted to withdraw the modified/ enhanced award amount, along with accrued interest and costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal.

15.The appellant/ claimant shall not be entitled to any interest for the period of delay, if any, in filing/ representing the appeal. The



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appellant/ claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accidents Claims Tribunal, Special Sub Court No.II, Court of Small Causes, Chennai, shall disburse the compensation amount upon production of certified copy showing proof of payment of Court fee by the appellant/ claimant.

16.The civil miscellaneous appeal is partly allowed. No costs.

20.11.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Subordinate Judge,
Special Sub Court No.II,
Court of Small Causes,
Chennai.



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M.DHANDAPANI,J.
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