



C.M.A.No.2287 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2024

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.2287 of 2024

N.Dhinakaran

...Appellant

.Vs.

1.M/s.Sundaram Fasteners Limited,
No.98A, Radhakrishnan Salai,
Mylapore, Chennai – 600 004.

2.United India Insurance Company Limited,
Silingi Building, No.134, Greams Road,
Chennai – 600 006.

...Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 11.10.2023 in M.C.O.P.2629 of 2020 on the file of the Motor Accidents Claims Tribunal, III Small Causes Court, Chennai.

For Appellant : Mr.Amar D.Pandiya

For R1 : Ms.Nilani Clarie.N
for M/s. Agam Legal

For R2 : Ms.R.Rathnathara



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JUDGMENT

The appellant is the claimant in M.C.O.P.2629 of 2020 on the file of the Motor Accidents Claims Tribunal, III Small Causes Court, Chennai. He filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.15,00,000/- for the injuries sustained by him in a road accident that took place on 28.09.2020.

2. The brief case of the claimant is as follows:

On 28.09.2020, the claimant was riding a motorcycle bearing Registration Number TN-12-F-8862 on L.B. Road, Adyar, Chennai and at about 9.55 hours, a speeding car bearing Registration Number TN-06-L-5718 came in the opposite direction and hit the claimant, as a result of which, the claimant sustained injuries all over his body. He was immediately rushed to Fortis Malar Hospital, Chennai. After getting first aid, he got himself admitted in Government Stanley Medical College Hospital, Chennai, where he was treated as an inpatient for 12 days.



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3. According to the claimant, the rash and negligent driving of the driver of the car bearing Registration Number TN-06-L-5718 belonging to the first respondent was the cause of the accident and that since the said car was insured with the second respondent, the United India Insurance Company Limited, the owner of the car (first respondent) and the insurer are jointly and severally liable to pay compensation to him.

4. In the Tribunal, the owner of the car remained absent and was set *ex parte*. The second respondent, the United India Insurance Company Limited contested the claim petition on all the grounds available to the insurer under Section 170 of the Motor Vehicles Act.

5. The Tribunal after analysing the evidence on record, fastened negligence on the part of the driver of the car and directed the second respondent, Insurance Company to pay compensation of Rs.1,63,900/- to the claimant together with interest at the rate of 7.5% per annum from the date of petition till the date of realization, vide its orders dated 11.10.2023.



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6. 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.

7. Heard Mr.Amar D.Pandiya, learned counsel for the appellant, Ms.Nilani Clarie.N, learned counsel for the first respondent and Ms.R.Rathnathara, learned counsel for the second respondent.

8. Mr.Amar D.Pandiya, learned counsel for the appellant would contend that though the claimant was a mason and the Medical Board had assessed the partial permanent disability as 17%, a meagre amount of Rs.85,000/- was awarded by the Tribunal towards disability. He would further contend that as per the discharge summary (Ex.P3) issued by the Government Stanley Medical College Hospital, Chennai, the claimant took treatment as an in-patient from 28.09.2020 to 09.10.2020 and he sustained a fracture on his right proximal tibia. He therefore contended that multiplier method should be adopted in the instant case. He also pointed out that the Tribunal awarded meagre amounts under other heads. He therefore prayed



for overall enhancement of compensation.

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9. *Per contra*, Ms.Nilani Clarie.N, learned counsel for the first respondent and Ms.R.Rathnathara, learned counsel for the second respondent contended that the award passed by the Tribunal is based on the well laid principles of law which were in vogue at the time of passing of the order and therefore, the same need not be disturbed at this stage.

10. The Medical Board attached to Government Stanley Medical College Hospital, Chennai, has assessed the partial permanent disability of the claimant as 17%. The Tribunal has awarded Rs.5,000/- per percentage of disability since there was no functional disability. The disability certificate does not speak about functional disability. The age of the claimant was 40 years at the time of accident and the accident took place in the year 2020. Considering the same, awarding Rs.7,000/- per percentage would meet the ends of justice.

11. The Tribunal while awarding compensation under various heads, has awarded sum of Rs.28,000/- towards "loss of income". A perusal



of the discharge summary (Ex.P3) shows that the claimant took treatment as an in-patient from 28.09.2020 to 09.10.2020 as he sustained fracture on his right proximal tibia. In the facts and circumstances, the appellant would not have been in a position to attend to his regular work atleast for four months. Thus, a sum of Rs.56,000/- (14,000 x 4 = 56,000) is awarded towards loss of income. 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>Heads</i>	<i>Amount awarded by Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
1.	Disability	85,000/-	1,19,000/-
2.	Pain and sufferings	10,000/-	20,000/-
3.	Transportation charges	4,000/-	10,000/-
4.	Medical Expenses	12,299/-	12,299/-
5.	Extra nourishment	10,000/-	10,000/-
6.	Attender's charges	3,600/-	5,000/-
7.	Damage to clothes	1,000/-	1,000/-
8.	Loss of amenities	10,000/-	10,000/-
9.	Loss earnings	28,000/-	56,000/-
TOTAL		Rs.1,63,899/- rounded off to Rs.1,63,900/-	Rs.2,43,299/- rounded off to Rs.2,43,300/-



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12. Thus, the compensation awarded by the Tribunal is enhanced from Rs.1,63,900/- to Rs.2,43,300/- which would carry interest at the rate of 7.5% per annum.

13. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed. No costs.
- ii. The compensation awarded by the Tribunal is enhanced from Rs.1,63,900/- to Rs.2,43,300/-.
- iii. The appellant / claimant is directed to pay the court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after the receipt of Court fee.
- iv. The second respondent, the United India Insurance Company Limited, is directed to deposit the enhanced compensation amount i.e., Rs.2,43,300/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition



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till the date of deposit to the credit of M.C.O.P.2629 of 2020 on the file of the Motor Accidents Claims Tribunal, III Small Causes Court, Chennai, within a period of four weeks from the date of receipt of a copy of this order.

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

vi. The appellant / claimant is not entitled to claim any interest for the period of delay of 58 days in filing this appeal.

04.09.2024

Index : Yes/No
Speaking / Non-speaking order
mtl



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To

1. The Motor Accidents Claims Tribunal,
III Small Causes Court, Chennai.
2. United India Insurance Company Limited,
Silingi Building, No.134, Greams Road,
Chennai – 600 006.
3. The Section Officer, VR Section, Madras High Court, Chennai.



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R. HEMALATHA, J.

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