



C.M.A.No.3204 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3204 of 2024

S.Rajavel

... Appellant / Petitioner

Vs.

1. A.Vinu

2. The New India Assurance Company Ltd.,
No.252, 1st Floor, NM Arcade,
Opposite to ARRS Multiplex,
Meyyanur Bye Pass Road,
Salem - 636 004.

... Respondents / Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 14.02.2024 made in M.C.O.P.No.982 of 2023 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Court No.1, Salem.

For Appellant : Mr.S.P.Yuaraj

For R2 : Mrs.R.Sreevidhya



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J U D G M E N T

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The appellant / claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, Special Subordinate Court No.1, Salem, in M.C.O.P.No.982 of 2023, dated 14.02.2024, has filed this appeal.

2. The case of the claimant is that on 20.05.2023, at about 07.30 p.m., when he was proceeding in a two wheeler from Namakkal to Rasipuram, a car belonging to the first respondent was driven by its driver in a rash and negligent manner and hit against the two wheeler, as a result, the claimant sustained injuries all over the body. The claimant undertook treatment as inpatient for nearly 17 days from 20.05.2023 to 05.06.2023. The Medical Board assessed the permanent disability of the claimant at 70%. It is under these circumstances, the claim petition came to be filed by the appellant/claimant before the Tribunal seeking compensation.



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3. Before the Tribunal, the claimant was examined himself as P.W.1 and Exs.P1 to P6 were marked. No witness has been examined on behalf of the second respondent and Ex.R.W.1 was marked. 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 car. Having reached such a finding, the Tribunal proceeded to fix the total compensation at Rs.36,01,981/- under various heads. The above compensation was directed to be paid by the second respondent 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. The learned counsel appearing for the appellant submitted that



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the appellant was working as a JCB Operator and was earning Rs.25,000/- per month and due to rash and negligent driving of the driver of the first respondent, the appellant sustained right leg broken and right leg amputation and also sustained grievous injuries all over his bodies. However, the Tribunal fixed Rs.12,000/- as monthly income. He further submitted that the amount awarded under the head 'pain and suffering' is also minimal, which requires enhancement. Hence, the learned counsel for the appellant prays for enhancement of compensation.

6. The first respondent remained *ex-parte* before the Tribunal.

7. Per contra, the learned counsel appearing for the second respondent / Insurance Company submitted that the Tribunal, taking into consideration all the relevant documents, has rightly fixed the compensation, which does not require any interference.



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8. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

9. The main grievance expressed by learned counsel for appellant pertains to the monthly income fixed by the Tribunal at Rs.12,000/-. The appellant/claimant claimed that he was working as JCB Operator and was earning nearly Rs.25,000/- p.m. There was no material to prove the monthly income of the appellant. Therefore, the Tribunal fixed the notional monthly income at Rs.12,000/-.

10. Considering the fact that the accident had taken place in the year 2023 and that the claimant was aged about 37 years and was working as a JCB Operator and sustained grievous injuries, this Court is inclined to fix the monthly income at Rs.15,000/- p.m. Accordingly, the compensation under the head 'disability' is calculated as follows:



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Monthly Income	:	Rs. 15,000/-
Add: Future Prospects 40% of Rs.15,000/-	:	Rs. 6,000/- ----- Rs. 21,000/-
Annual Income (21000 * 12)	:	Rs. 2,52,000/-
Multiplier	:	x 15 ----- Rs.37,80,000/- x 70% -----
Disability	:	Rs. 26,46,000/- -----

11. It is seen from records that the claimant has undergone treatment as inpatient for nearly 17 days and sustained traumatic amputation below knee right side closed right femur midshaft fracture. Therefore, this Court is inclined to enhance the compensation under the head 'Pain and Suffering' from Rs.70,000/- to Rs.1,25,000/-.

12. The compensation awarded under the other heads is reasonable and it does not require the interference of this Court.



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13. In the above circumstances, the compensation awarded by the Tribunal under the below mentioned heads is modified as under:

<i>S.No</i>	<i>Head of Compensation</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
1	Pain and Sufferings	70,000/-	1,25,000/-
2	Transport Charges	50,000/-	50,000/-
3	Medical Expenses	9,14,181/-	9,14,181/-
4	Nutritious Charges	30,000/-	30,000/-
5	Attender Charges	30,000/-	30,000/-
6	Damages to Clothes	1,000/-	1,000/-
7	Loss of Amenities	30,000/-	30,000/-
8	Disability	21,16,800/-	26,46,000/-
9	Artificial Leg	3,60,000	3,60,000/-
	Total	36,01,981/-	41,86,181

14. In the result, this Civil Miscellaneous Appeal is allowed in part and the compensation awarded by the Tribunal at Rs.36,01,981/- is hereby enhanced to Rs.41,86,181/- together with interest @ 7.5% per



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annum from the date of filing of claim petition till the date of deposit. The second respondent / Insurance Company is directed to deposit the entire award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.982 of 2023 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Court No.I, Salem. On such deposit, the appellant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn fixed by the Tribunal by making proper application before the Tribunal. Insofar as the enhanced compensation is concerned, the claimant will not be entitled for interest for the period of delay of 45 days as was ordered by this Court in C.M.P.No.14928 of 2024, dated 18.10.2024. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. No costs.

10.12.2024



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NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

ssb

To

1. The Motor Accidents Claims Tribunal,
Special Subordinate Court No.I,
Salem.
2. The New India Assurance Company Ltd.,
No.252, 1st Floor, NM Arcade,
Opposite to ARRS Multiplex,
Meyyanur Bye Pass Road,
Salem - 636 004.
3. The Section Officer,
V.R. Section,
High Court, Chennai.



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M.DHANDAPANI, J.

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