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C.M.A.No.2746 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.2746 of 2023

Ganesan

...Appellant

Vs

1.Ramsamy
2.The United India Insurance Co. Limited,
Ranga Building, 104A, II Floor,
Permanur Main Road,
Near Four Roads, Salem 636 007.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation amount made in order dated 23.08.2022 made in MCOP.No.749 of 2020 on the file of the Motor Accident Claims Tribunal/Special Subordinate Judge No.1, Salem.

For Appellant : Mr.T.S.Arthanareeswaran

For Respondents : Ms.I.Malar for R2
Notice dispensed with for R1



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JUDGMENT

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This civil miscellaneous appeal has been filed challenging the quantum of compensation awarded by the Tribunal.

2. The learned counsel for the claimant would submit that on 16.01.2020, while the appellant was talking with his friends at Thiruchengodu Road, a two-wheeler bearing Registration No.TN-52-J-4040, came in a rash and negligent manner and dashed against the appellant, due to which, he had sustained grievous injuries.

3. The learned counsel appearing for the appellant would submit that the Tribunal had only taken 30% as functional disability and awarded a sum of Rs.5,000/- per percentage, which is on lower side. Hence, he requests this Court to enhance the same as a sum of Rs.7,000/- per percentage.

4. In reply, the learned counsel appearing for the insurance company would submit that the amount awarded by the Tribunal is just and reasonable. Hence, he requests this Court to confirm the same.



5. Heard the learned counsel for the appellant and the respondents and also perused the materials available on record.

6. In the present case, since the accident had occurred in the year 2020 and the Tribunal had not applied multiplier method to award compensation, this Court feels that it will be just and reasonable to award a sum of Rs.6,000/- per percentage. Accordingly, the compensation under the head “disability” is calculated as follows:

$$\text{Rs.6,000/-} * 30 \text{ (functional disability)} = \text{Rs.1,80,000/-}$$

7. Further, it appears that the Tribunal had not awarded any amount with regard to the future medical expenses. Hence, this Court is inclined to award a sum of Rs.20,000/- under the head Future Medical Expenses. Accordingly, the compensation awarded by the Tribunal is modified as follows:

<i>S.No</i>	<i>Particulars</i>	<i>Compensation awarded by the Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
1	Pain and Suffering	50,000	50,000
2	Transport Expenses	10,000	10,000
3	Extra Nourishments	20,000	20,000



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S.No	Particulars	Compensation awarded by the Tribunal (Rs.)	Compensation awarded by this Court (Rs.)
4	Attender Charges	10,000	10,000
5	Cloth Damages	1,000	1,000
6	Medical Expenses	90,455	90,455
7	30% disability	1,50,000	1,80,000
8	Loss of Income	50,000	50,000
9	Loss of Amenities	10,000	10,000
10	Future Medical Expenses	Nil	20,000
	Total	3,91,455	4,41,455

8. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.4,41,455/-. Accordingly, the award amount stands increased from a sum of Rs.3,91,455/- to Rs.4,41,455/-. In all other aspects, the award of the Tribunal stands confirmed.

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the 2nd respondent/insurance company is directed to deposit a sum of Rs.4,41,455/- 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 MCOP.No.749 of 2020 on the file of the Special Subordinate Judge



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No.1, Motor Accident Claims Tribunal, Salem. Upon such deposit, the Tribunal is directed to transfer the entire amount to their bank account of the appellant, by way of RTGS, within a period of three weeks from the deposit or from the date of receipt of the Bank details obtained for the claimant or application for withdrawal from the claimant, whichever is earlier. No costs.

08.01.2024

Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
nsa

To:

The Motor Accident Claims Tribunal,
Special Subordinate Judge No.1, Salem.



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KRISHNAN RAMASAMY,J.

nsa

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