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C.M.A. No.1898 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.1898 of 2020

N. Subramani

.... Appellant

VS.

1. C. Periyasamy

2. IFFCO-TOKIO General Insurance
Company Ltd.,

No.138/2, LMR Shopping Arcade,
II Floor,

Opposite MGM Theatre,
Salem Main Road,

Namakkal District – 637 001.

.... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 13.01.2020 passed in M.C.O.P. No.1556 of 2017 on the file of Motor Accidents Claims Tribunal / Principal District Judge, Namakkal.

For Appellant

: Mr.C. Thangaraju

For Respondents

: Ms. S. Rathna Thara for R2

R1 – Dismissed as not pressed

JUDGMENT

This appeal has been filed by the claimant seeking enhancement of compensation.



C.M.A. No.1898 of 2020

2. Heard Mr.C. Thangaraju, learned counsel for the appellant / claimant and Ms. S. Rathna Thara, learned counsel for the 2nd respondent / Insurance Company.

3. The Tribunal under the impugned award has directed the 2nd respondent / Insurance Company to pay the appellant / claimant a compensation of Rs.1,84,831/- for the injuries sustained by the appellant as a result of an accident caused by the vehicle owned by the 1st respondent and insured with the 2nd respondent. The details of the compensation awarded by the Tribunal to the claimant are as follows:

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>
Permanent Disability (Rs.3,000/- per percentage of disability x 20%)	60,000
Medical Bills (as per Ex.P7)	1,13,831
Pain and sufferings	6,000
Nutrition	5,000
Total	1,84,831

4. Admittedly, the appellant / claimant had sustained spinal cord injuries and had also sustained fracture as a result of an accident caused by the vehicle insured with the 2nd respondent / Insurance Company. The



C.M.A. No.1898 of 2020

nature of injuries sustained by the appellant / claimant has not been disputed by the 2nd respondent as seen from the evidence available on record. The accident happened on 13.08.2017. The Tribunal has assessed the disability of the appellant / claimant at 20%, and based on the disability certificate (Ex.P11), the Tribunal has awarded the disability compensation of Rs.60,000/- for the 20% disability suffered by the appellant, calculated at 3,000/- per percentage of disability. Since the accident happened in the year 2017, this Court is of the considered view that the Tribunal has erroneously calculated the disability at Rs.3,000/- per percentage of disability. For an accident that has happened in the year 2017, the Tribunal ought to have assessed the disability compensation at Rs.7,000/- per percentage of disability, instead of erroneously fixing the same at Rs.3,000/- per percentage of disability. Accordingly, this Court re-assesses the disability compensation payable to the appellant / claimant at Rs.1,40,000/-, calculated at Rs.7,000/- per percentage of disability for the 20% disability suffered by the appellant.

5. The Tribunal has also awarded a lesser compensation towards pain and suffering and nutrition charges. After giving due consideration to the nature of injuries sustained by the appellant / claimant and the period of his hospitalisation, which was for a period of 32 days, this



C.M.A. No.1898 of 2020

Court enhances the compensation towards pain and suffering from Rs.6,000/- to Rs.25,000/- and towards nutrition / Extra nourishment from Rs.5,000/- to Rs.10,000/- respectively.

6. The Tribunal has erroneously failed to award any compensation towards transportation and attender charges, which the appellant / claimant is entitled to. Therefore, this Court awards a sum of Rs.10,000/- towards transportation and Rs.25,000/- towards attender charges respectively.

7. For the foregoing reasons, the compensation awarded by the Tribunal is re-worked in the following manner :-

<i>Heads</i>	<i>Amount Awarded by the Tribunal in Rs.</i>	<i>Amount Awarded by this Court in Rs.</i>
Permanent Disability *(Rs.3,000/- per percentage of disability x 20%) #(Rs.7,000/- per percentage of disability x 20%)	60,000 *	1,40,000 #
Medical Bills (as per Ex.P7)	1,13,831	1,13,831
Pain and sufferings	6,000	25,000
Nutrition / Extra nourishment	5,000	10,000
Transportation	-	10,000



C.M.A. No.1898 of 2020

<i>Heads</i>	<i>Amount Awarded by the Tribunal in Rs.</i>	<i>Amount Awarded by this Court in Rs.</i>
Attender charges	-	25,000
Total	1,84,831	3,23,831

8. In the result, this appeal stands partly allowed by enhancing the compensation from Rs.1,84,831/- to Rs.3,23,831/-. However, the pay and recovery rights granted by the Tribunal to the 2nd respondent / Insurance Company is hereby confirmed. No Costs.

9. The 2nd respondent / Insurance Company is directed to deposit the amount awarded by this Court, after deducting the amount already deposited if any, together with interest and costs to the credit of M.C.O.P. No. 1556 of 2017 on the file of the Motor Accidents Claims Tribunal (Principal District Court), Namakkal, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal shall transfer the award amount to the bank account of the appellant / claimant through RTGS within a period of two weeks thereafter. Necessary Court fee, if any has to be paid by the appellant / claimant before receiving the copy of this Judgment.

04.07.2024
(2/2)

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
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C.M.A. No.1898 of 2020

ABDUL QUDDHOSE, J.

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To

1. The Principal District Judge,
Motor Accidents Claims Tribunal,
Namakkal.

2. The Section Officer,
V.R. Section, High Court of Madras,
Chennai – 104.

C.M.A. No.1898 of 2020

04.07.2024
(2/2)