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C.M.A.No.2226 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

C.M.A.No.2226 of 2023

A.K.Ravishankar

.. Appellant

Vs.

1.C.Rajesh

2.M/s.The New India Assurance Co. Ltd.,
Rep. by its Divisional Manager,
Officer's Lane, Vellore,
Vellore District – 632 001.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to allow the Civil Miscellaneous Appeal setting aside the award and decree of the learned Motor Accident Claims Tribunal Judge / Additional District Judge (FTC), Vellore, dated 01.06.2022 in M.C.O.P.No.427 of 2016.

For Appellant : Mr.S.Balaganesh
for Mr.T.M.Hariharan

For R1 : No appearance

For R2 : Mr.M.Krishnamoorthy

JUDGMENT



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The claimant not being satisfied with the quantum of compensation fixed by the Tribunal has filed the present appeal against the award passed by the Motor Accident Claims Tribunal, Additional District Judge (FTC), Vellore, dated 01.06.2022 in M.C.O.P.No.427 of 2016.

2.The case of the claimant is that he was riding a two wheeler on 27.01.2016 towards Sathuvachari and in the place of occurrence, the car belonging to the 1st respondent was driven in a rash and negligent manner and as a result, it dashed on the two wheeler and the claimant sustained the following injuries:

“Comminuted inter – condylar fracture of R femur involving & into the right knee joint with a medial (inward) angulation.”

The claimant underwent treatment as inpatient for seven days and he also underwent a surgery. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of the oral and documentary evidence, came to a



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conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the vehicle belonging to 1st respondent. Having rendered such a finding, the Tribunal fixed the total compensation at Rs.5,88,350/- under various heads as follows:

1.Disability	-	Rs.1,20,000/-
2.Pain and Sufferings	-	Rs.20,000/-
3.Transportation	-	Rs.9,500/-
4.Extra Nourishment	-	Rs.15,000/-
5.Attender Charges	-	Rs.1,750/-
6.Medical Expenses	-	Rs.3,62,100/-
7.Loss of Earning	-	Rs.30,000/-
8.Loss of future prospects	-	Rs.30,000/-

		Rs.5,88,350/-

4.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

5.The claimant aggrieved by the award passed by the Tribunal has filed the present appeal seeking for enhancement of compensation.



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6.Heard the learned counsel for the appellant and the learned counsel for the 2nd respondent.

7.This Court has carefully considered the submissions made on either side and the materials available on record.

8.This Court has also carefully gone through the award passed by the Tribunal.

9.The Tribunal has adopted per percentage method in this case while calculating compensation under the head of disability. The learned counsel for the appellant submitted that considering the nature of injuries sustained and the consequences of such injuries, the Tribunal ought to have adopted the multiplier method.

10.The disability of the claimant was fixed at 40% by the Medical Board through the disability certificate marked as Ex.C1. There is nothing to show that the claimant suffered from functional disability. Therefore, the per percentage method followed by the Tribunal cannot be



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faulted. However, the Tribunal has fixed only a sum of Rs.3,000/- per percentage of disability. The accident had taken place in the year 2016 and therefore, relying upon the judgment of the Hon'ble Division Bench of this Court dated **15.06.2022** in **C.M.A.No.3334 of 2021**, this Court is inclined to fix a sum of Rs.5,000/- per percentage of disability. Accordingly, the compensation under the head of disability works out to Rs.5,000/- X 40% = Rs.2,00,000/-.

11.The claimant has underwent treatment as inpatient for seven days and was also operated. Therefore, this Court is inclined to fix the compensation under the head of pain and sufferings to Rs.30,000/- and attender charges to Rs.10,000/-.

12.The Tribunal has fixed the monthly income at Rs.10,000/- and granted compensation under the head of loss of earnings at Rs.30,000/-. The claimant has come up before the Tribunal with a stand that he was a Director of a Private Limited Company dealing with Pharmaceutical products and he is earning a sum of Rs.50,000/- per month. Considering the said claim made by the appellant, this Court is inclined to fix the



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monthly income at Rs.20,000/- and accordingly, the compensation under the head of loss of earnings is fixed at Rs.60,000/- (Rs.20,000/- X 3).

13.The Tribunal has granted compensation of a sum of Rs.30,000/- under the head of loss of future prospects. No such compensation can be granted in a case of injury and that too in a case where the claimant has not suffered any functional disability. Therefore, this Court has to necessarily interfere with the compensation that was fixed under this head and the same is set aside.

14.The compensation that has been granted under other heads is reasonable and does not require the interference of this Court.

15.In the light of the above discussions, the compensation awarded by the Tribunal is modified as follows:

1.Disability	-	Rs.2,00,000/-
2.Pain and Sufferings	-	Rs.30,000/-
3.Transportation	-	Rs.9,500/-
4.Extra Nourishment	-	Rs.15,000/-



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5.Attender Charges	-	Rs.10,000/-
6.Medical Expenses	-	Rs.3,62,100/-
7.Loss of Earning	-	Rs.60,000/-

Rs.6,86,600/-

16.The compensation awarded by the Tribunal at Rs.5,88,350/- is hereby enhanced to Rs.6,86,600/-. The 2nd respondent-Insurance Company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

17.In the result, the Civil Miscellaneous Appeal is partly allowed in the above terms. No costs.

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

1.The Additional District Judge (FTC),
Motor Accident Claims Tribunal,
Vellore.

2.The Section Officer,
VR Section,
Madras High Court,
Chennai.

N.ANAND VENKATESH, J.

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