



C.M.A.No.2361 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.2361 of 2023

K.Selvakumar

...Appellant

Vs

1.P.Madesh

2.Shriram General Insurance Co. Ltd.,

I Floor, Plot No.5,

Ramachandra Street, Saravana Nagar,

Seevaram, Perungudi,

Chennai 600 096.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgement dated 23.03.2023 made in MCOP.No.1591 of 2018 on the file of the Motor Accident Claims Tribunal, I Additional Sub Court, Cuddalore.

For Appellant : Ms.Ramya V.Rao

For Respondents : Ms.C.Bhuvana Sundari, for R2



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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 26.10.2017, while the appellant was riding his two-wheeler bearing Registration No.PY-01-AY-0743 at Serakuppam Road with his daughter, a goods vehicle bearing TN-29-AM-3835, came in a rash and negligent manner and dashed against the appellant, due to which he had sustained grievous injuries. The medical board examined the injured and fixed the disability as 55%.

3. Further, he would submit that the Tribunal fixed the notional income of the injured as a sum of Rs.12,000/- for awarding the loss of income. Hence, he would request this Court to enhance the compensation by taking the notional income as Rs.14,000/-. Further, he also requested this Court to re-determine the compensation awarded under the heads “loss of amenities” and “attender charges”.



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4. In reply, the learned counsel for the respondent would fairly submit that considering the facts and circumstances of the present appeal, this Court may pass appropriate orders.

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

6. In a similar situation, the Hon'ble Division Bench of this Court had awarded the compensation by taking the notional income of the injured as a sum of Rs.18,000/-. However, in the present appeal, the appellant is pleading this Court to consider the notional income only as a sum of Rs.14,000/-, which appears to be just and reasonable. Hence, this Court is inclined to fix a sum of Rs.14,000/- as notional income and accordingly, the loss of income will be calculated as follows:

$$\text{Rs.14,000 (income) + Rs.3,500 (future prospects 25\%)} * 13 \text{ (multiplier)} * 12 \text{ (months)} * 55/100 \text{ (disability)} = \text{Rs.15,01,500/-}$$



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7. Further, this Court is also inclined to enhance the compensation awarded under the heads “loss of amenities” and “attender charges” to a sum of Rs.50,000/- each.

8. Accordingly, the compensation awarded by the Tribunal is modified as follows:

<i>S.No.</i>	<i>Heads</i>	<i>Compensation awarded by Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
1	Loss of income	12,87,000	15,01,500
2	Pain and Sufferings	1,00,000	1,00,000
3	Loss of Amenities	20,000	50,000
4	Extra Nourishment	24,000	24,000
5	Attender charges	24,000	50,000
6	Transport charges	24,000	24,000
7	Medical Bills	1,11,670	1,11,670
8	Future Medical Expenses	10,000	10,000
	Total Compensation is fixed at	16,00,670	18,71,170

9. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.18,71,170/-. Accordingly, the award amount stands increased from a sum of Rs.16,00,670/- to Rs.18,71,170/-. In all other aspects, the award of the Tribunal stands confirmed.



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10. In the result, this Civil Miscellaneous Appeal is partly allowed and the 2nd respondent/insurance company is directed to deposit a sum of Rs.18,71,170/- 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.1591 of 2018 on the file of the I Additional Sub Court, Motor Accident Claims Tribunal, Cuddalore. Upon such deposit, the Tribunal is directed to transfer the entire amount to the 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

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KRISHNAN RAMASAMY,J.

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To:

The Motor Accident Claims Tribunal,
I Additional Sub Court, Cuddalore.

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