



C.M.A.No.3290 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.3290 of 2024

K.Chandra Sekaran @ Chandra Sekar ... Appellant

Vs.

1.R.Raja Ram

2.The Manager,
The Reliance General Insurance Co. Ltd,
No.6, Reliance House,
Haddows Road, Nungambakkam,
Chennai – 600 018. ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, on the point of negligence and quantum so far as the disallowed portion of the Compensation against the Judgment and Decree dated 10th day of October, 2022 made in M.C.O.P.No.1172 of 2017 on the file of the Motor Accident Claims Tribunal (V Judge, Court of Small Causes) at Chennai.

For Appellant : M/s.U.Anunitha

For Respondents : Notice dispensed with [R1]
Mr.P.Suresh Srinivasan [R2]



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JUDGMENT

Questioning the negligence as well as the quantum of compensation awarded by the Motor Accident Claims Tribunal, (V Judge, Court of Small Causes) at Chennai in M.C.O.P.No.1172 of 2017 dated 10.10.2022, the appellant/claimant has filed the present appeal.

2. In view of the judgment, which is going to be passed in this appeal, notice to the 1st respondent is dispensed with.

3. The case of the appellant/claimant is that, on 15.10.2016 at about 18.30 hours, he was driving his motorcycle bearing Regn.No.PY-01-CE-3787 from Konerykuppam to Avanipur Road opposite the Mahindra Centro Bike bearing Regn.No.TN-16-C-3073, owned by the 1st respondent and insured with the 2nd respondent, driven by its driver in a rash and negligent manner and dashed against the motorcycle, due to which, he sustained grievous injuries. Therefore, the appellant had filed a claim petition claiming a sum of Rs.25,00,000/- as compensation for the injuries sustained by him in the said road accident.



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4. Before the Tribunal, the appellant had examined himself as P.W.1 and two other witnesses as P.W.2 and P.W.3 and marked 22 documents viz., Ex.P.1 to Ex.P.22. No witnesses were examined nor any documents were marked on the side of the respondents. Apart from that, one court document was marked as Ex.C.1. After adjudication, the Tribunal awarded a sum of Rs.8,87,500/- as compensation to the appellant after deducting 15% towards contributory negligence. Aggrieved by the same, the appellant has preferred the present appeal.

5. Learned counsel appearing for the appellant submitted that, the Tribunal has erred in fixing 15% contributory negligence when the FIR was filed against the 1st respondent vehicle, which requires to be interfered with. She further submitted that though the doctor assessed the disability of the appellant/claimant at 53% permanent disability, however, the Tribunal has not adopted multiplier method to award compensation towards loss of earning, which requires to be re-considered by this Court. Further, she submitted that the compensation awarded by the Tribunal under the other heads is on the lower side, which also requires to be re-considered by this Court. Accordingly, she prays for appropriate



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enhancement in favour of the appellant.

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6. Per contra, learned counsel appearing for the second respondent/insurance company submitted that, the Tribunal has considered all the materials in proper perspective and awarded compensation under the various heads, which are just and reasonable and the same does not require any enhancement. Further, the Tribunal had rightly fixed 15% contributory negligence for not wearing helmet by the appellant, which does not require any interference. Accordingly, he prays for dismissal of the appeal.

7. Heard the learned counsel appearing for the appellant and the learned counsel appearing on behalf of the second respondent and perused the materials available on record.

8. There is no quarrel with the fact that the accident had happened due to the rash and negligent driving of the driver of the first respondent's vehicle. In the evidence of the appellant/P.W.1, he himself deposed that if he had worn a helmet at the time of the accident, the head



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injury would not have happened. Therefore, the Tribunal had fixed 15% contributory negligence on the part of the appellant, however, this Court is of the view that, for not wearing helmet, fixing 15% contributory negligence is on the higher side. Accordingly, the contributory negligence fixed on the appellant is reduced to 10%.

9. Now, coming to the question of quantum of compensation awarded by the Tribunal, it is borne from the award passed by the Tribunal that the Medical Board at Government Royapettah Hospital had issued disability certificate viz., Ex.C.1 stating that the appellant had suffered disability at 53%. By accepting the said certificate, the Tribunal had awarded compensation towards disability by adopting multiplier method, since the appellant had not proved that his avocation had been affected by the accidental injuries, which cannot be said to be perverse, illegal or arbitrary. Therefore, this Court is not inclined to interfere with the method adopted by the Tribunal in awarding compensation towards disability.



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10. Further, the Tribunal had awarded a sum of Rs.5,58,513/- towards medical expenses; Rs.10,000/- towards loss of income; Rs.50,000/- towards pain and sufferings & Mental agony; Rs.15,000/- towards Transportation Expenses; Rs.20,000/- towards Nutrition Expenses; Rs.1,000/- towards Damages to Clothes; Rs.34,500/- towards attender charges and Rs.40,000/- towards loss of amenities. This Court finds that the compensation awarded under the heads Medical Expenses, Loss of Income, Damages to Clothes and Loss of Amenities are just and reasonable and the same is confirmed. However, insofar as the compensation awarded towards Pain and Suffering & Mental agony, Transportation Expenses, Nutrition Expenses and Attender Charges are concerned, this Court feels that the same is on the lower side and accordingly, the compensation awarded under the said heads are enhanced to a sum of Rs.75,000/-, Rs.20,000/-, Rs.30,000/- and Rs.45,000/- respectively.

11. In view of the above, the compensation awarded by the Tribunal is modified as under :-



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<i>S. No.</i>	<i>Description</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
1	Disability	2,65,000/-	2,65,000/-
2	Medical Expenses	5,58,513/-	5,58,513/-
3	Loss of Income	60,000/-	60,000/-
4	Pain and sufferings & Metal agony	50,000/-	75,000/- (enhanced)
5	Transportation Expenses	15,000/-	20,000/- (enhanced)
6	Nutrition Expenses	20,000/-	30,000/- (enhanced)
7	Damages to Clother	1,000/-	1,000/-
8	Attender charges	34,500/-	45,000/- (enhanced)
9	Loss of amenities	40,000/-	40,000/-
	Total compensation	10,44,013/-	10,94,513/-
	Less : contributory negligence committed by the appellant/claimant	1,56,601.95/- (15%)	1,09,451.3/- (10%)
	Balance amount	8,87,411.05/-	9,85,061.7/-
	Total (Rounded off)	8,87,500/-	9,85,100/-

12. Accordingly, this Civil Miscellaneous Appeal is partly allowed and the impugned award is modified, enhancing the compensation amount from **Rs.8,87,500/-** to **Rs.9,85,100/-** and the respondents 1 and 2 are jointly and severally liable to pay the modified compensation amount to the appellant. The second respondent/Insurance



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Company is directed to deposit the compensation amount, awarded by this Court, to the credit of M.C.O.P.No.1172 of 2017 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six weeks (6) from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellant/claimant through RTGS within a period of two (2) weeks thereafter upon production of proof with regard to payment of Court fee on the enhanced compensation. The appellant/claimant is directed to pay necessary additional Court fee on the enhanced compensation amount. It is made clear that the appellant will not entitled to any interest for the delay period. No costs.

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Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To



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The Motor Accidents Claims Tribunal (V Judge, Court of Small Causes)
at Chennai.

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M.DHANDAPANI, J.

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