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C.M.A.No.1777 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2024

CORAM :

The Hon'ble Mr. Justice Krishnan Ramasamy

C.M.A.No.1777 of 2023

P.Rajagopal

... Appellant

Vs.

1. C.R.Ramadoss
2. The New India Assurance Co.Ltd.,
Motor Third Party Claims Office,
No.232, Bombay Mutual Building,
6th Floor, NSC Bose Road,
Chennai 600 001.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, against the judgment and decree dated 08.07.2021 in M.C.O.P.No.2017/2018 on the file of the Motor Accidents Tribunal (IV Small Causes Court), Chennai.

For Appellant	: Mr.R.Nalliyappan
For R1	: Notice served, No appearance
For R2	: Mr.T.Jayaraman for Mr.K.Elango

JUDGEMENT



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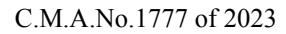
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This Civil Miscellaneous Appeal has been filed by the claimant, challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal in M.C.O.P.No.2017/2018 dated 08.07.2021.

2. On 10.03.2018 at about 18.30 hours, when the appellant/claimant was walking along 200 feet road near Echangadu Indian Oil Petrol Bunk from North to South direction, at that time, he was hit by a Crane bearing Reg.No.TN-14-M-3346, which was driven by its driver in rash and negligent manner. Due to the impact, the appellant/claimant sustained grievous injuries all over his body. Hence, the appellant made a claim before the Tribunal, seeking a sum of Rs.13,00,000/- as compensation.

3. On consideration of oral and documentary evidence, the Tribunal has awarded a sum of Rs.2,04,652/- towards compensation to the appellant. Being not satisfied with the same, the appellant/claimant has preferred the present appeal.

4. The learned counsel for the appellant submitted that, at the time of accident, the appellant was working as a Security Officer, and earning a sum of Rs.15,000/- per month. However, without considering the same, the Tribunal



5. The learned counsel for the second respondent fairly admitted that, based on the multiplier method, any reasonable amount may be awarded by this Court.

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

7. The fact and the manner of the accident is not disputed by the parties and also the fixation of contributory negligence and fastening the liability. The



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challenge in the present appeal is only with regard to the quantum of compensation awarded by the Tribunal. In the present case, as noticed above, the appellant was aged about 65 years, and was earning a sum of Rs.15,000/- per month. However, the notional income of the appellant fixed by the Tribunal at Rs.9,000/- per month, appears to be low. The main contention of the learned counsel for the appellant is that, the appellant has sustained fracture on both bone left forearm, due to which, the movement of the arm got restricted. Today, the claimant/appellant appeared before this Court and this Court noticed that, due to the injuries, movement of his left arm got restricted, left hand fingers are not functioning and he is not able to carry on his day-to-day activities. Therefore, taking into consideration of the nature of injuries sustained by the claimant, this Court is inclined to fix the notional monthly income of the appellant/claimant at Rs.15,000/- per month, which is just and reasonable. Further, this Court feels that the Medical Board assessed temporary functional disability at 15%, however, after five years from the date of the accident, there is no improvement in his disability. Hence, this Court feels it appropriate to fix functional disability at 25% and decided to adopt multiplier method thereon, though the claimant can certainly go for some employment, however, since he is aged about 65 years, he has to face some difficulties in his work. Thus, by fixing the notional income of the appellant/claimant at Rs.15,000/- per month;



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adopting the multiplier of '7' as per the decision of Apex Court, the “loss of earning due to disability” is arrived at Rs.15,000/-
 $12 \times 7 \times (25/100) = \text{Rs.3,15,000/-}$.

8. Consequently, a sum of **Rs.75,000/-** awarded by the Tribunal under the head of “loss of earning due to disability” is hereby modified, and enhanced to **Rs.3,15,000/-**.

9. Insofar as the compensation awarded by the Tribunal under other heads are concerned, this Court finds the same is just and proper and the same is hereby confirmed.

10. Thus, the total compensation payable to the appellant/claimant under various Heads is as hereunder:-

<i>S.No</i>	<i>Head</i>	<i>Amount granted in Rs.</i>
1.	Loss of earning due to Disability	3,15,000/-
2.	Medical expenses	20,252/-
3.	Loss of income	27,000/-
4.	Pain and sufferings	20,000/-
5.	Transportation	5,000/-
6.	Additional nourishment	20,000/-
7.	Damages to clothes	1,000/-



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<i>S.No</i>	<i>Head</i>	<i>Amount granted in Rs.</i>
8.	Attender charges	26,400/-
9.	Loss of amenities	10,000/-
Total		4,44,652/-

11. Consequently, the total compensation amount of Rs.2,04,652/- awarded by the Tribunal is hereby modified and enhanced to **Rs.4,44,652/-**, which shall carry interest at the rate of **7.5%** per annum from the date of claim petition till the date of deposit.

12. In the result, this Civil Miscellaneous Appeal filed by the appellant/claimant is partly allowed on the following terms:-

(i) The second respondent, Assurance Company is directed to deposit the entire amount awarded by this Court along with interest at the rate of 7.5 % p.a. and costs before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment, after deducting the amount already deposited, if any.

(ii) On such deposit being made by the Assurance Company, the Tribunal shall transfer the amount directly to the claimant's respective bank accounts through RTGS within a period of three weeks thereon.



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WEB COPY (iii) The appellant/claimant is entitled to withdraw the entire award amount, less the amount already withdrawn, if any, by making necessary application before the Tribunal.

iv) The appellant/claimant is directed to pay the Court fee for the enhanced compensation, if any.

vi) There shall be no order as to costs.

18.03.2024

Index : Yes / No
NCC : Yes / No
jd

To

1. The Motor Accidents Tribunal,
IV Small Causes Court, Chennai.

2. The Section Officer,
V.R. Section,
High Court, Madras.

Krishnan Ramasamy,J.,
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