



C.M.A.No.2778 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.2778 of 2023

Madurai

...Appellant

Vs

1.S.Ganeshbabu
2.The Manager,
United India Insurance Company Limited,
Motor Third Party Hub,
Silingi Building, 4th Floor,
No.134, Greems Road,
Chennai 600 006.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow the present appeal award enhanced compensation in judgment dated 12.08.2022 in MCOP.No.1424 of 2015 on the file of the Motor Accident Claims Tribunal (VI Court of Small Causes) Chennai as prayed for in this Civil Miscellaneous Appeal with cost.



C.M.A.No.2778 of 2023

For Appellant : Mr.R.Nalliyappan

For Respondents : R1- Notice dispensed with
Dr.C.Paranthaman, for R2

JUDGMENT

This civil miscellaneous appeal has been filed enhance the compensation awarded vide the judgement dated 12.08.2022 in MCOP.No.1424 of 2015.

2. The learned counsel for the appellants would submit that on 27.12.2014, while the claimant was walking at Thuraipakkam Rajiv Gandhi Road, a two-wheeler bearing Registration No.TN-68-6656 came in a rash and negligent manner and dashed against the claimant, due to which he sustained grievous injury. Considering all the aspects the Tribunal had awarded the following compensation:

<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
1	Medical Expenses	Nil
2	Transportation	5,000
3	Extra Nourishment	7,000
4	Attenders Charges	10,000
5	Loss of Clothes	Nil



C.M.A.No.2778 of 2023

<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
6	Functional Disability	24,000
7	Loss of Income	21,000
8	Pain and Sufferings	15,000
	Total	82,000

3. Further, he would submit that the medical board had determined the disability of the injured at 8% and based on the same, the Tribunal had awarded the compensation by applying the percentage method i.e., Rs.3,000 per percentage. In the present case, since the accident was occurred in the year 2014, he prays this Court to re-determine the said compensation as a sum of Rs.5,000/- per percentage.

4. He would also contend that since the injured had sustained fracture in his right leg and he was admitted in the hospital for treatment for a period of 80 days, he was unable to perform his day to day activities for nearly 6 months. However, the Tribunal had awarded the loss of income for only a period of 3 months by fixing the notional income as a sum of Rs.7,000/-. Hence, prays this Court to enhance the same. Further, since no amount was awarded towards the medical expenses, he requested this Court to award a sum of Rs.15,000/-



C.M.A.No.2778 of 2023

towards medical expenses.

WEB COPY

5. In reply, though the learned counsel appearing for the respondent had initially made objections, subsequently he would submit that any amount may be fixed by this Court.

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

7. In the present case, the injured had sustained fracture in his right leg and had took treatment for nearly 80 days in the Government Hospital. In such view of the matter, the loss of income awarded by the Tribunal for a period of 3 months appears to be on lower side. Hence, this Court is inclined to award the loss of income for a period of 6 months instead of 3 months by taking the notional income as a sum of Rs.10,000/- instead of Rs.7,000/-. Therefore, the compensation towards the loss of income would be a sum of Rs.60,000/- (6 months * Rs.10,000/-).



WEB COPY

8. Further, it appears that the Medical Board had determined the disability of the injured at 8%, for which, the Tribunal had awarded a sum of Rs.3,000/- per percentage as compensation, which is on lower side. Hence, this Court is inclined to re-determine the same as a sum of Rs.5,000/- per percentage and hence, the compensation under the head disability would be a sum of Rs.40,000/- (8% * Rs.5,000/-).

9. Further, since the Tribunal had awarded only a sum of Rs.7,000/- towards extra nourishment and no amount was awarded for medical expenses, this Court is inclined to award a sum of Rs.15,000/- towards extra nourishment and Rs.20,000/- towards medical expenses. Accordingly, the compensation awarded by the Tribunal is modified as follows:

<i>S.No</i>	<i>Particulars</i>	<i>Compensation awarded by the Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
1	Medical Expenses	Nil	20,000
2	Transportation	5,000	5,000
3	Extra Nourishment	7,000	15,000



S.No	Particulars	Compensation awarded by the Tribunal (Rs.)	Compensation awarded by this Court (Rs.)
4	Attenders Charges	10,000	10,000
5	Loss of Clothes	Nil	Nil
6	Functional Disability	24,000	40,000
7	Loss of Income	21,000	60,000
8	Pain and Sufferings	15,000	15,000
	Total	82,000	1,65,000

10. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.1,65,000/-. Accordingly, the award amount stands enhanced from a sum of Rs.82,000/- to Rs.1,65,000/-. In all other aspects, the award of the Tribunal stands confirmed.

11. In the result, this Civil Miscellaneous Appeal is partly allowed and the 2nd respondent is directed to deposit a sum of Rs.1,65,000/- along with interest and costs, less the amount already deposited, if any, within a period of 6 weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.1424 of 2015 on the file of the Motor Accident Claims Tribunal (VI Court of Small Causes) Chennai. Further, the appellants/claimants shall pay



C.M.A.No.2778 of 2023

necessary Court fee, if any, on the enhanced compensation. Thereafter, the Tribunal is directed to immediately transfer the entire amount to the bank account of the claimant by way of RTGS, within a period of 3 weeks from the date of deposit and 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.

24.01.2024

Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
nsa

To:

The Motor Accident Claims Tribunal,
Court of Small Causes, Chennai.



WEB COPY



C.M.A.No.2778 of 2023

KRISHNAN RAMASAMY,J.

nsa

C.M.A.No.2778 of 2023

24.01.2024