



C.M.A.No.3218 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

C.M.A.No.3218 of 2024

S.Gokul

...Appellant

Vs.

1. Sathyanarayanan
2. New India Assurance Company Ltd.,
Bombay Mutual Building,
6th Floor, NSC Bose Road
Chennai – 600 001.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, seeking to allow the appeal and enhance the compensation in MCOP.No.2509 of 2017 dated 15.07.2022 on the file of the Motor Accident Claims Tribunal/V Court of Small Causes, Chennai.

For Appellant : Ms.Ramya V.Rao

For Respondents : M/s.A.Salomi, for R2



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JUDGEMENT

Challenging the judgment and decree dated 15.07.2022 made in MCOP.No.2509 of 2017 on the file of the Motor Accident Claims Tribunal/V Court of Small Causes, Chennai, the claimant is before this Court.

2. M/s.A.Salomi, learned counsel takes notice on behalf of the 2nd respondent. In view of the consent expressed by the learned counsel on either side, this appeal is taken up for final disposal at the admission stage itself.

3. It is the case of the appellant/claimant that, on 12.04.2017 at about 09.45 pm., when he was riding the motorcycle bearing Regn.No.TN-23-CY-2531, at that time, a car bearing Regn.No.TN-09-CE-7944 owned by the 1st respondent insured with the 2nd respondent driven by its driver in a rash and negligent manner came in the same direction and dashed against the motorcycle driven by the appellant, due to which the appellant sustained grievous injuries and got admitted in the hospital. Thereby, the appellant filed a claim petition seeking compensation of Rs.10,00,000/-. Before the tribunal,



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the claimant examined two witnesses viz., P.W.1 and P.W.2 and marked exhibits P.1 to P.15 and on the side of respondents no documents were marked and no witness was examined. After trial, the Tribunal, on appreciation of oral and documentary evidence, though came to a conclusion that the accident had taken place solely due to the rash and negligent driving on the part of the driver of the 1st respondent vehicle, however, awarded a meagre compensation of Rs.1,84,875/-. Being not satisfied with the quantum of compensation awarded by the Tribunal, the appellant/claimant has come up with this appeal seeking enhancement of compensation.

4. Learned counsel appearing for the appellant submitted that admittedly, the above said accident occurred solely due to the rash and negligent driving of the driver of the 1st respondent vehicle, due to which, the appellant sustained grievous head injury and multiple facial abrasions and the Doctor, who was examined as P.W.2 had issued a Disability certificate, marked as Ex.P.15 holding that the appellant suffered partial permanent disability of 20%, however, the tribunal, without assigning any reason, had



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fixed the disability suffered by the appellant at 15% and had taken only a sum of Rs.5,000/- per percentage, which is very meagre and the compensation awarded under the other heads are also on lower side and the same has to necessarily be enhanced. Accordingly, he prayed for appropriate orders.

5. Per contra, the learned counsel appearing for the 2nd respondent/ Insurance Company submitted that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prayed for dismissal of the appeal.

6. Heard the learned counsel on either side and perused the materials available on record.

7. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The major grievances of the Appellant/claimant is with regard to the quantum of compensation awarded by the Tribunal. It is claimed by the appellant that though the accident is of the year 2017, however, the Tribunal had taken had taken a sum



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of Rs.5,000/- per percentage of disability. In this regard, this Court perused Ex.P.15, which is the disability certificate issued by the Doctor, P.W.2 and not the Medical Board and the same reveals that the appellant suffered disability of 20%. It is to be pointed out that the percentage of disability varies from doctor to doctor. Hence, considering the deposition made by the PW2, Doctor who examined the appellant/claimant, the Ex.P.15, the Disability certificate and also taking into account the nature of injuries suffered by the appellant, the tribunal had fixed the disability sustained by the appellant at the rate of 15% and had rightly adopted a sum of Rs.5,000/- per percentage of disability and awarded a sum of Rs.75,000/-, in which this Court does not find any fault with.

8. Insofar as the compensation awarded under other heads are concerned, the accident is of the year 2017, however, the tribunal awarded a sum of Rs.20,000/-, Rs.5,000/-, Rs.10,000/- and Rs.3,000/- under the heads Pain and suffering, Transportation expenses, Nutrition Expenses and Attender charges respectively, which are on the lower side and thereby, this Court is



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inclined to enhance the same to Rs.50,000/-, Rs.10,000/-, Rs.20,000/- and Rs.10,000/- respectively. Further, a sum of Rs.20,000/- and Rs.10,000/- has been awarded under the heads Loss of amenities and Mental agony, which is not sustainable and thereby, this Court is inclined to set aside the same.

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

Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
Disability	75,000/-	75,000/-
Medical Expenses	34,875/-	34,875/-
Loss of income	16,000/-	16,000/-
Pain and sufferings	20,000/-	50,000/-
Transportation expenses	5,000/-	10,000/-
Nutritious expenses	10,000/-	20,000/-
Damages to clothes	1,000/-	1,000/-
Attender charges	3,000/-	10,000/-
Loss of amenities	10,000/-	-
Mental Agony	10,000/-	-
Total	1,84,875/-	2,16,875/-



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10. Accordingly, the appeal is partly allowed and the impugned award of the Tribunal is modified enhancing the compensation amount from **Rs.1,84,875/-** to **Rs.2,16,875/-**. The 2nd respondent/Insurance Company is directed to deposit the said amount to the credit of MCOP.No.2509 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 four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the said amount directly to the bank account of the Appellant 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 by the appellant. It is underscored that the appellant is not entitled to any interest for the default period, if any. No costs.

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes / No

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To

1. The Motor Accident Claims Tribunal,
V Small Causes Court, Chennai
2. The Section Officer,
V.R. Section, High Court, Madras.



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M.DHANDAPANI, J.

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