



C.M.A.Nos.1622 & 1657 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.Nos.1622 & 1657 of 2023

S.Sankar Ganesh

... Appellant in C.M.A.No.1622 of 2023

K.Ajith

... Appellant in C.M.A.No.1657 of 2023

Vs.

1. M/s.Veetrage Textiles Pvt. Ltd.,
No.56, Singhvi Solitaire,
G.N.Chetty Road,
T.Nagar, Chennai 600 017.

2. The New India Assurance Co., Ltd.,
No.45, Moore Street, Chennai 600 001.

Now at:

“Bombay Mutual Building”, 6th Floor, T.P.cell,
No.232, N.S.C.Bose Road,
Chennai 600 001.

... Respondents in both C.M.A's



C.M.A.Nos.1622 & 1657 of 2023

Prayer in C.M.A.No.1622 of 2023: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the common judgment and decree in M.C.O.P.No.5102 of 2015 dated 18.03.2022 on the file of the Special Sub-Judge No.2, Small Causes Court, (Motor Accidents Claims Tribunal), Chennai.

Prayer in C.M.A.No.1657 of 2023: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the common judgment and decree in M.C.O.P.No.5086 of 2015 dated 18.03.2022 on the file of the Special Sub-Judge No.2, Small Causes Court, (Motor Accidents Claims Tribunal), Chennai.

Appearance in both C.M.A's.

For Appellant : Mr.F.Terry Chella Raja

For R1 : Ex parte

For R2 : Mr.R.Rajesh

COMMON JUDGEMENT

Challenging the quantum of compensation awarded by the Tribunal in M.C.O.P.Nos.5086 & 5102 of 2015, dated 18.03.2022, the appellants/claimants have filed the present appeals.

2. Since both the appeals arise out of the common order, they have been taken up together and, being disposed of by this common judgement.



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3. On 01.04.2015 at about 03.15 p.m., while the appellant in C.M.A.No.1622 of 2023 was riding his motorcycle bearing Reg.No.TN-09-BZ-3157 along with pillion rider namely Ajith/appellant in C.M.A.No.1657 of 2023 in West Jones Road, they were hit by a car bearing Reg.No.TN-09-BC-9820, driven by its driver which came from opposite direction, in a rash and negligent manner. Due to the said accident, the appellants sustained grievous injuries all over their body. Hence, the claimants have filed claim petitions before the Tribunal seeking a sum of Rs.4,00,000/- each as compensation.

4. On consideration of oral and documentary evidence, the Tribunal has awarded a sum of Rs.1,93,700/- in C.M.A.No.1622 of 2023 and Rs.1,52,600/- in C.M.A.No.1657 of 2023 respectively towards compensation to the appellants. Being not satisfied with the quantum of compensation, both the appellants have filed these appeals.

5. The learned counsel for the appellants submitted that, the



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appellants seek enhancement of compensation awarded by the Tribunal under different heads. However, during the course of hearing, the claimants have restricted their claims only with regard to the amount awarded under the head “disability”. Further, he submitted that, based on the percentage method, the Tribunal has awarded a sum of Rs.4,000/- per percentage in both appeals, which is on the lower side. Accordingly, he prays for appropriate modification of the Tribunal's award in respect of disability.

6. The learned counsel for the second respondent/Assurance Company fairly submitted that, any reasonable amount of compensation may be awarded under the head “disability”.

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

8. On perusal of the records, it shows that the Tribunal has taken



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entire percentage of disability at 40% in C.M.A.No.1622 of 2023 and 30% in C.M.A.No.1657 of 2023 respectively as assessed by the Medical Board, which is not in dispute. The main grievance of the appellants is that, the Tribunal awarded a sum of Rs.4,000/- per percentage under the head “disability”, which is very meager, since the accident occurred in the year of 2015. In view of the above and considering the nature of injuries sustained by the appellants/claimants, this Court is inclined to fix a sum of Rs.5,000/- per percentage. Thus, the amount awarded by the Tribunal under the head of “disability” is modified and enhanced to a sum of Rs.2,00,000/- in C.M.A.No.1622 of 2023 and Rs.1,50,000/- in C.M.A.No.1657 of 2023 respectively.

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 are hereby confirmed.

10. Thus, the compensation awarded by the Tribunal in both the appeals are modified as under :-

C.M.A.No.1622 of 2023:



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<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Disability	1,60,000/-	2,00,000/-
Pain and sufferings	15,000/-	15,000/-
Transportation	3,000/-	3,000/-
Medical expenses	500/-	500/-
Extra nourishment	8,000/-	8,000/-
Attender charges	600/-	600/-
Loss of earnings	6,600/-	6,600/-
Total	1,93,700	2,33,700/-

11. Consequently, the total compensation amount of Rs.1,93,700/- awarded by the Tribunal is hereby modified and enhanced to **Rs.2,33,700/-** which shall carry interest at the rate of **7.5%** per annum from the date of claim petition till the date of deposit.

C.M.A.No.1657 of 2023

<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Disability	1,20,000/-	1,50,000/-
Pain and sufferings	15,000/-	15,000/-
Transportation	3,000/-	3,000/-
Extra nourishment	8,000/-	8,000/-



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<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Loss of earnings	6,600/-	6,600/-
Total	1,52,600/-	1,82,600/-

12. Consequently, the total compensation amount of Rs.1,52,600/- awarded by the Tribunal is hereby modified and enhanced to **Rs.1,82,600/-** which shall carry interest at the rate of **7.5%** per annum from the date of claim petition till the date of deposit.

13. With the above extent, both the Civil Miscellaneous Appeals filed by the appellants/claimants are 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.



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

(iii) The appellants/claimants are entitled to withdraw the entire award amount, less the amount already withdrawn, if any, by making necessary application before the Tribunal.

iv) The appellants/claimants are directed to pay the court fee for the enhanced compensation, if any.

v) There shall be no order as to costs.

18.03.2024

Index : Yes / No
NCC : Yes / No
jd

Krishnan Ramasamy,J.,



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To

1. The Motor Accident Claims Tribunal,
Special Sub Judge-II,
Court of Small Causes, Chennai.
2. The Section Officer,
V.R. Section,
High Court, Madras.

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