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C.M.A.No.2761 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2024

CORAM :

The Hon'ble Mr. Justice Krishnan Ramasamy

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Vinoth

... Appellant

Vs.

1. Sakthivel
2. National Insurance Company Limited,
Branch Office, 3rd Floor,
Anuradha Complex,
Bangalore Road,
Krishnagiri.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the M.C.O.P.No.527 of 2019 dated 20.10.2021 by the Motor Accident Claims Tribunal/Special Sub Judge (MACT), Krishnagiri.

For Appellant : Mr.J.Pradeep

For R2 : Mr.S.Senthil Kumar



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JUDGEMENT

This Civil Miscellaneous Appeal has been filed by the appellant/claimant, challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal in M.C.O.P.No.527 of 2019 dated 20.10.2021.

2. On 16.09.2018, at about 3.15 p.m., when the appellant/claimant was travelling as a pillion rider in a motorcycle bearing Reg.No.TN-24-AK-0299, he was hit by a Tipper lorry bearing Reg.No.TN-67-H-0722, which came from the opposite direction, driven by its driver in a rash and negligent manner. Due to the impact, the appellant/claimant sustained grievous injuries all over his body, specifically fractures over his left eye, left hip, right knee and left knee. Hence, the appellant/claimant made a claim petition before the Tribunal, seeking a sum of Rs.16,00,000/- as compensation.

3. On consideration of oral and documentary evidence, the Tribunal awarded a sum of Rs.3,48,339/- towards compensation to the



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appellant. Being not satisfied with the said compensation, the appellant/claimant has filed the present appeal.

4. The learned counsel for the appellant/claimant would submit that, at the time of accident, the appellant was working as Software Engineer and earning a sum of Rs.30,000/- per month. Due to the injuries sustained by the appellant, there is some difficulty for him to work as Software Engineer and now he is presently running a Computer centre. The learned counsel contended that Medical Board assessed and fixed functional disability at 40% and awarded a sum of Rs.5,000/- per percentage and arrived at Rs.2,00,000/- towards “disability”, which appears to be low, and the same needs to be enhanced by this Court. Further, he submitted that, the Tribunal has not awarded any amount towards “future medical expenses”. Accordingly, he prays for appropriate enhancement in favour of the claimant.

5. The learned counsel for the second respondent/Insurance Company would submit that the compensation awarded by the Tribunal is just and fair, which does not requires any interference.



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6. Heard the learned counsel for the appellant and 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. Therefore, this Court is not dealing with the said aspect. The only grievance of the appellant is with regard to the quantum of compensation awarded by the Tribunal. In the present case, the disability was assessed by the Medical Board and fixed functional disability at 40%, and, this Court, vide order dated 06.03.2024, directed the appellant/claimant to appear before this Court. Today, the claimant appeared and this Court noticed that, due to the injuries sustained by the claimant, he suffered some giddiness and some difficulty in performing day-to-day activities, but he can able to walk, speak and still he is taking one tablet everyday. Under these circumstances, and taking into consideration, the submission made by the learned counsel for the appellant, this Court feels that a sum of Rs.5,000/- per percentage towards “disability”, which appears to be low. Therefore, this Court feels that it would be appropriate to fix a sum of Rs.6,000/- per percentage, and thus the amount towards “disability” is



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modified and enhanced to a sum of Rs.2,40,000/-.

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8. This Court finds that the Tribunal has not awarded any amount under the head of “future medical expenses”. Therefore, this Court is inclined to award a sum of Rs.25,000/- towards “future medical expenses”, since the appellant used to take a tablet everyday.

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

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

<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Loss of earning due to disability	2,00,000/-	2,40,000/-
Medical expenses	50,839/-	50,839/-
Pain and sufferings	32,000/-	32,000/-
Nutrition and attender charges	15,000/-	15,000/-



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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>
Transportation	10,000/-	10,000/-
Loss of Amenities	32,000/-	32,000/-
Future medical expenses	Nil	25,000/-
Loss of income during treatment period	8,500/-	8,500/-
Total	3,48,339/-	4,13,339/-

11. Accordingly, the Appeal is partly allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.3,48,339/-** to **Rs.4,13,339/-**. The second respondent/Insurance Company is directed to deposit the said amount along with interest at 7.5% and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.527 of 2019 on the file of Motor Accident Claims Tribunal, Special Sub Judge, Krishnagiri. Upon such deposit being made, the Tribunal is directed to transfer the entire amount to the bank account of the claimant, by way of RTGS, within a period of three weeks from the deposit or from the date of receipt of the Bank details obtained from the claimant or application for withdrawal



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from the claimant, whichever is later. The appellant/claimant is directed to pay the necessary Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time the certified copy showing proof of payment of Court fee has been produced by the claimant. No costs.

11.03.2024

Index : Yes / No

NCC : Yes / No

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To

1. The Motor Accident Claims Tribunal,
Special Sub Judge,
Krishnagiri.
2. The Section Officer,
V.R. Section,
High Court, Madras.



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Krishnan Ramasamy,J.,

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