



C.M.A. No.2003 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.2003 of 2021

Sunhail

.... Appellant

vs.

1. Murugan

(Since R1 remained exparte before the Tribunal,
his presence may be dispensed with)

2. Shriram General Insurance Company Ltd.,
No.4, Lady Desika Road,
II Floor,
Mookambigai Complex,
Mylapore,
Chennai – 600 004.

.... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 31.08.2018 and made in M.A.C.T.O.P. No.4257 of 2015 on the file of the Motor Accident Claims Tribunal, the Special Sub Court No.1, Motor Accidents Claims Petitions, Small Causes Court, Chennai.

For Appellant
For Respondents

:Mr.F. Terry Chella Raja
:Ms. R. Sreevidhya for R2
R1 - Exparte



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JUDGMENT

WEB COPY This appeal has been filed by the claimant seeking enhancement of compensation.

2. The Tribunal under the impugned award has directed the 2nd respondent / Insurance Company to pay a total compensation of Rs.1,70,200/- to the appellant / claimant as detailed hereunder :-

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>
Disability	30,000
Pain and Sufferings	15,000
Extra Nourishment	10,000
Transportation	5,000
Medical Expenses	76,620
Attender Charges	2,500
Loss of Earnings	16,000
Loss of Future prospects	15,000
Total Compensation	1,70,120
Rounded off	1,70,200

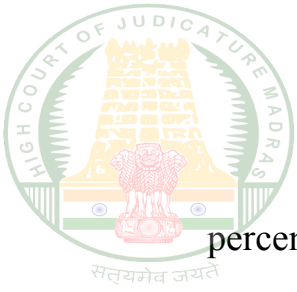
3. Heard Mr.F. Terry Chella Raja, learned counsel for the appellant / claimant and Ms. R. Sreevidhya, learned counsel for the 2nd respondent / Insurance Company. The 1st respondent has remained ex-parte both before the Tribunal as well as this Court.



4. This Court has perused and examined the impugned award

passed by the Tribunal.

5. The appellant / claimant has sustained injuries as a result of an accident caused by a vehicle insured with the 2nd respondent and owned by the 1st respondent. The appellant / claimant sustained head injuries and the nature of injuries sustained by the appellant / claimant has not been disputed by the 2nd respondent / Insurance Company, as seen from the evidence available on record. The Doctor, who was examined as a witness (PW2) has assessed the disability of the appellant / claimant at 30%. However, the Tribunal without any basis has reduced the disability to 10%. No proper reasons have been given by the Tribunal for reducing the disability of the appellant / claimant from 30% to 10%. Having sustained head injuries and having been hospitalised on two spells, the Tribunal ought to have accepted the assessment of disability of the appellant / claimant made by the Doctor (PW2). But erroneously, the Tribunal without any basis has reduced the disability of the appellant / claimant to 10%. In view of the same, this Court fixes the disability of the appellant / claimant as fixed by the Doctor (PW2) at 30%. The Tribunal has awarded disability compensation of Rs.30,000/- based on



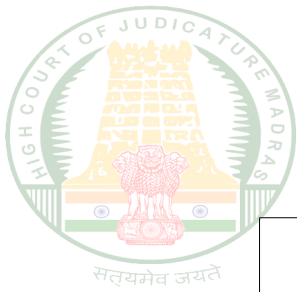
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percentage basis, calculated at Rs.3,000/- per percentage of disability.

WEB CO This Court is of the considered view that the assessment of the disability compensation at Rs.3,000/- per percentage of disability is correct but in view of the wrong assessment of the disability of the appellant / claimant by the Tribunal at 10%, this Court enhances the disability compensation payable to the appellant / claimant at Rs.90,000/-, calculated at Rs.3,000/- per percentage of disability for the 30% disability suffered by the appellant / claimant (Rs.3000 x 30).

6. Insofar as the compensation awarded by the Tribunal under various other heads are concerned, this Court is of the considered view that the said compensation is a just compensation and does not call for any interference by this Court.

7. For the foregoing reasons, the compensation awarded by the Tribunal is enhanced from Rs.1,70,200/- to Rs.2,30,200/- as detailed hereunder:



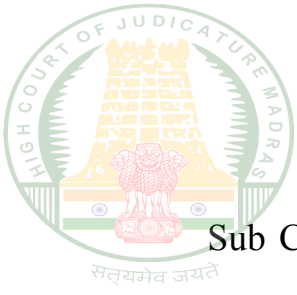
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<i>Heads</i>	<i>Amount Awarded by the Tribunal in Rs.</i>	<i>Amount Awarded by this Court in Rs.</i>
Disability * Rs.3000/- x 10 # Rs.3000/- x 30	30,000 *	90,000 #
Pain and Sufferings	15,000	15,000
Extra Nourishment	10,000	10,000
Transportation	5,000	5,000
Medical Expenses	76,620	76,620
Attender Charges	2,500	2,500
Loss of Earnings	16,000	16,000
Loss of Future prospects	15,000	15,000
Total Compensation	1,70,120	2,30,120
Rounded off	1,70,200	2,30,200

8. In the result, this Civil Miscellaneous Appeal is partly allowed by enhancing the compensation from Rs.1,70,200/- to Rs.2,30,200/-. No Costs.

9. The 2nd respondent / Insurance Company is directed to deposit the amount awarded by this Court, after deducting the amount already deposited if any, together with interest @ 7.5%p.a., from the date of claim till the date of deposit and cost, to the credit of M.C.O.P. No.4257 of 2015 on the file of the Motor Accident Claims Tribunal, the Special



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Sub Court No.1, Small Causes Court, Chennai, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellant /claimant through RTGS, within a period of two weeks thereafter. Necessary Court fee, if any has to be paid by the appellant / claimant before receiving the copy of this Judgment.

18.04.2024

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
vsi2



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ABDUL QUDDHOSE, J.

vsi2

To

i) The Special Sub Judge No.1,
Special Sub Court No.1,
Motor Accident Claims Tribunal,
Small Causes Court, Chennai.

ii) The Section Officer,
V.R. Section, High Court of Madras,
Chennai – 104.

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