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C.M.A.No.2258 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

C.M.A.No.2258 of 2022

K.S.Sundarajan

.. Appellant

Vs.

1.Tamil Selvan

(Notice to 1st respondent dispensed with
as he was set exparte before the Tribunal)

2.Reliance General Insurance Ltd.,
Branch Office: Sree Lakshmi Complex,
1st Floor, Omalur Main Road,
Bharathi Street, Swarnapuri,
Salem – 636 004.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the award for a sum of Rs.3,90,000/- dated 06.04.2022 in M.C.O.P.No.9083 of 2015 on the file of the III Court of Small Causes, (The Motor Accident Claims Tribunal) at Chennai and to pass an award enhancing the compensation to a sum of Rs.15,00,000/- with subsequent interest at 7.5% p.a from the date of petition with cost as against the 2nd respondent Insurance Company.



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For Appellant : Mr.V.Sekar

For R2 : Mr.P.Suresh Srinivasan

J U D G M E N T

The claimant not being satisfied with the quantum of compensation fixed by the Tribunal has filed this appeal seeking for enhancement against the award of the III Court of Small Causes, (The Motor Accident Claims Tribunal) at Chennai, in M.C.O.P.No.9083 of 2015, dated 06.04.2022.

2.The case of the claimant is that on 05.06.2015 at about 13.30 hours, the claimant was traveling in his Maruti Swift car near V.Koot Road, Salem towards Chennai. Near the Chinna Salem Rayappanur Deviation, the offending vehicle was driven in a rash and negligent manner and it was coming from North to South and it hit the vehicle belonging to the claimant and as a result, the claimant sustained grievous injury and the car was also badly damaged. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for compensation.



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3.The Tribunal on considering the facts and circumstances of the case and on appreciation of the oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the offending vehicle. Having rendered such a finding, the Tribunal proceeded to fix the compensation and the total compensation was fixed at Rs.3,89,949.01 in the following manner:

1.Disability (32% X Rs.4,000)	-	Rs.1,28,000.00
2.Attender charges	-	Rs.9,800.00
3.Loss of amenities	-	Rs.15,000.00
4.Towards Pain and Sufferings	-	Rs.15,000.00
5.Towards Extra Nourishment & Transportation	-	Rs.15,000.00
6.Damages to clothes	-	Rs.1,000.00
7.Medical expenses	-	Rs.2,06.149.01

		Rs.3,89,949.01

4.The above compensation was directed to be paid by the Insurance Company at 7.5% interest per annum.

5.The claimant not being satisfied with the quantum of compensation fixed by the Tribunal has filed the present appeal seeking



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for enhancement of compensation.

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6.Heard the learned counsel for the appellant and the learned counsel for the 2nd respondent.

7.This Court has carefully considered the submissions made on either side and the materials available on record.

8.This Court has also carefully gone through the award passed by the Tribunal.

9.The main ground that was raised by the learned counsel for the appellant is that the compensation amount fixed by the Tribunal under the heads of attender charges, pain and sufferings and transportation is on the lower side. It was further contended that the Tribunal has not taken into consideration the bills that were marked to substantiate the medical expenses and transportation expenses, as Ex.P4 series. In so far as the transportation expenses are concerned, no compensation was granted and in so far as medical expenses are concerned, the compensation was granted only for the period 2015.



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10.The claimant had sustained serious head injuries which is evident from Ex.C1. The disability has been assessed at 32% on the ground that the claimant had suffered post traumatic brain injury sequelae with multiple fractures due to RTA causing (1) malunited (L) Glenoid # (2) Malunited Left distal radius # (3) Left Acetabulum # (4) (L) lung contusion.

11.It is also seen that the claimant had undergone surgery and he was an inpatient for nearly 28 days in hospital.

12.Ex.P4 series shows the medical expenses that were incurred towards transportation charges and also the medical expenses. The Tribunal has granted compensation under the head of medical expenses to the tune of Rs.2,06,149.01. This compensation amount pertains to the medical expenses incurred during the year 2015. Unfortunately, the Tribunal did not take into consideration the medical bills that were submitted for the years 2016, 2017 and 2018 and it works out to a total sum of Rs.1,59,132/- (Rs.74,827/- + Rs.73,288/- + Rs.11,017/-). There is no dispute with regard to these bills and therefore, the claimant will be entitled for medical expenses based on these bills also.



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13.In view of the above, the compensation under the head of medical expenses totally works out to the tune of Rs.3,65,281/- (Rs.2,06,149/- + Rs.1,59,132/-).

14.In so far as the transportation expenses are concerned, the Tribunal has combined this head along with extra nourishment and also did not grant any compensation separately under this head. As stated supra, the bills that were marked as Ex.P4 series also covers the transport charges and it works out to the tune of Rs.37,405/-. The claimant will be entitled for compensation separately under this head to the tune of Rs.37,405/-.

15.In so far as the attender charges are concerned, considering the fact that the claimant was undergoing treatment as inpatient for 28 days, this Court is inclined to enhance the compensation to Rs.15,000/- from Rs.9,800/-. For the very same reason and coupled with the fact that the claimant had suffered serious head injury, the compensation under the head pain and sufferings is enhanced from Rs.15,000/- to Rs.25,000/-.

16.In the light of the above discussion, the compensation amount



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fixed by the Tribunal is modified as follows:

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Sl. No.	Compensation awarded under the head	Amount (in Rs.)
1.	Disability	1,28,000/-
2.	Attender charges	15,000/-
3.	Loss of amenities	15,000/-
4.	Pain and sufferings	25,000/-
5.	Extra nourishment	15,000/-
6.	Transportation	37,405/-
7.	Damage to clothes	1,000/-
8.	Medical bills	3,65,281/-
	Total	6,01,686/-

17.The compensation awarded by the Tribunal at Rs.3,89,949.01 (rounded off to Rs.3,90,000/-) is hereby enhanced to Rs.6,01,686/-. The 2nd respondent-Insurance Company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



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18.In the result, the Civil Miscellaneous Appeal is allowed in the
above terms. No costs.

15.04.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

1.The III Judge,
Motor Accident Claims Tribunal,
Small Causes Court,
Chennai.

2.The Section Officer,
VR Section,
Madras High Court,
Chennai.

N.ANAND VENKATESH, J.



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