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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Civil Miscellaneous Appeal No.3059 of 2024

Kandasamy

... Appellant

Vs.

1.Muruganatham
S/o.Muthukumar

2. United Insurance Company Ltd.,
Divisional Office – II (HUB)
No.104-A, Peramanoor Main Road,
Salem-7.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow the appeal and enhance the compensation in MCOP. No.429/2021 dated 03.11.2022 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Judge-I, Salem.

For Appellant : Ms.L.Manisha

For Respondents : Mr.I.Malar R2

JUDGMENT

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



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2. The case of the claimant is that when he was riding the motorcycle bearing Reg. No.TN 33 V 3647 on the Komarapalayam to Veppadai Road at Kavadiyankadu from east to west direction, at that time, a lorry bearing Reg. no.TN 28 M 9765 came from opposite direction driven by its driver in a rash and negligent manner, hit against the appellant, due to which, he sustained grievous injuries and multiple injuries all over the body. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3. The Tribunal on considering the facts and circumstances of the case and on appreciation of 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 driver of the lorry and awarded Rs.10,86,540/- towards compensation for the injuries under various heads.

4. The claimant not being satisfied with the quantum of



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compensation fixed by the Tribunal has filed this appeal seeking for enhancement of compensation.

5. The learned counsel for the appellant submitted that the age of the claimant is 47 years at the time of the accident and he suffered grievous injuries for the accident. Without considering the same, the Tribunal has awarded Rs.5,000/- per percentage for the disability which is very meagre. Further, the Tribunal has awarded compensation under the others heads viz., loss of income during treatment period, pain and suffering and transportation are also too low. Therefore, this Court may interfere with the impugned award and modify the same.

6. Per contra, the learned counsel appearing for the second respondent-Insurance Company contended that due to rash and negligent driving of the driver of the lorry, the accident had happened. The compensation awarded by the Tribunal in favour of the appellant is just and reasonable. Hence, this Court may dismiss the petition.

7. Heard the learned counsel for appellant/claimant and the



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learned counsel for 2nd respondent.

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

9. This Court also carefully went through the award passed by the Tribunal.

10. The fact in the present case is not in dispute and the manner of the accident is also not in dispute. For enhancement of compensation, the present appeal has been filed.

11. According to the appellant, the first respondent who is the driver, driving the lorry in rash and negligent manner and dashed against the appellant and therefore, he sustained injuries. It is the main ground of the appellant that without considering the nature of injuries sustained by the appellant, the Tribunal has awarded very meager amount in respect of disability, pain and suffering, transportation and loss of income during the treatment period. The appellant is 45 years old and he is an agriculturist



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and running a sweet stall and earned monthly a sum of Rs.25,000/- Even then the Tribunal has awarded a sum of Rs.5000/- per percentage for the disability which is very meager and this Court is inclined to interfere with the same. Hence, this Court awarded a sum of Rs.9,000/- per percentage for the disability. Likewise, considering the nature of injuries sustained by the claimant, this Court is also inclined to modify the award in respect of Pain and suffering and transportation which the appellant is legally entitled for. This Court is inclined to set aside the amount under the head "loss of amenities". Accordingly, the order passed by the Tribunal stands modified as follows:

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Modified Award Amount (Rs.)</i>
Pain and suffering	50,000	70,000
Loss of income	27,000	27,000
Medical expenses	7,03,540	7,03,540
Transportation	20,000	30,000
Extra nourishment	20,000	20,000
Attender charges	20,000	20,000
Damages to clothes	1,000	1,000
Loss of amenities	20,000	
For disability	2,25,000	4,05,000
Total	10,86,540	12,76,540/-

13. The compensation awarded by the Tribunal at Rs.10,86,540/- is



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enhanced to Rs. **12,76,540/-**. The second respondent Insurance company is directed to deposit the entire 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.

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

26.11.2024

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To,
Motor Accidents Claims Tribunal, Special Subordinate Judge-I, Salem.

M.DHANDAPANI,,J

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