



WEB COPY



Civil Miscellaneous Appeal No.393 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.393 of 2024

Kuberan @ Kubendiran
S/o.Chithirai

... Appellant

Vs.

1.S.Gunasekaran
S/o.Sampath

2.The Divisional Manager,
The Oriental Insurance Compnay Ltd.,
No.547, Gandhi Road,
Kanchipuram.

... Respondents

[No relief sought against the first respondent.
Hence, notice may be dispensed with]

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 29.03.2019 made in M.C.O.P.No.238 of 2010 on the file of Motor Accident Claims Tribunal, Additional Subordinate Court, Kancheepuram.

For Appellant : Mr.C.Prabakaran

For Respondents : Mr.N.Sampath [R2]



Civil Miscellaneous Appeal No.393 of 2024

JUDGMENT

WEB COPY This appeal has been filed by the appellant/claimant seeking for enhancement of compensation against the award passed by the Motor Accident Claims Tribunal, Additional Subordinate Court, Kancheepuram, in M.C.O.P.No.238 of 2010, dated 29.03.2019.

2. The appellant was riding the bicycle along with his children near Krishnan Street, Pillaiyarpalayam, Kanchipuram. At that time, the first respondent was riding his two wheeler in a rash and negligent manner and he dashed on the back side of the bicycle. As a result, the appellant was thrown out of the bicycle and he sustained grievous injuries. It is under these circumstances, the claim petition came to be filed before the Tribunal.

3. The Tribunal came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the first respondent. Having rendered such a finding, the Tribunal proceeded to fix the compensation. Accordingly, a total compensation of Rs.7,08,200/- was awarded. However, since the appellant had restricted the claim to Rs.3,00,000/-, the Tribunal had passed an award only for a sum of



Rs.3,00,000/- even though the total compensation was arrived at Rs.7,08,200/-. Aggrieved by the same, the present appeal has been filed before this Court.

4. Heard Mr.C.Prabakaran, learned counsel for appellant and Mr.N.Sampath, learned counsel appearing for second respondent.

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

6. It is now a well settled law that a just and fair compensation must be awarded under the Motor Vehicles Act and therefore, the Tribunal is always entitled to award compensation exceeding the amount that is claimed by the claimant. Useful reference can be made to the judgment in *Ramla and others v. National Insurance Co. Ltd. and others [2018 (2) TNMAC 721 (SC)]*.

7. The Tribunal, after considering the nature of injuries suffered by



the claimant, was pleased to fix the compensation under various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Permanent disability	6,91,200/-
2.	Medical expenses	10,000/-
3.	Transportation	5,000/-
4.	Damages to clothes and articles	2,000/-
	Total	7,08,200/-

8. Having arrived at the above compensation, the Tribunal had confined the compensation to Rs.3,00,000/- on the ground that the claimant has restricted his claim to Rs.3,00,000/-. This finding of the Tribunal goes against the judgment of the Apex Court referred supra. When a just compensation has been fixed by the Tribunal to the tune of Rs.7,08,200/-, there is no question of restricting it to Rs.3,00,000/-. Hence, the appellant is entitled for the actual compensation that was arrived at by the Tribunal to the tune of Rs.7,08,200/- along with interest at the rate of 7.5% p.a. from the date of claim petition till the date of realisation.

9. The compensation awarded by the tribunal at Rs.3,00,000/- is



Civil Miscellaneous Appeal No.393 of 2024

WEB COPY

enhanced to Rs.7,08,200/-. The second 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 of Rs.4,08,200/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay of 890 days as was ordered by this Court in C.M.P.No.21232 of 2023, dated 02.02.2024.

10. In the result, the award passed by the Tribunal is modified and the mode of payment that has been indicated in the award shall be followed by the second respondent insurance company while paying the enhanced compensation to the claimant with interest. The award in other respects will stand confirmed. It is further reiterated that the Tribunal had directed the second respondent insurance company to pay the compensation and thereafter, recover the same from the first respondent. This finding is also sustained.

N.ANAND VENKATESH, J.



Civil Miscellaneous Appeal No.393 of 2024

gm

WEB COPY

This Civil Miscellaneous Appeal is disposed of in the above terms.

No costs.

03.04.2024

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

gm

To

The Motor Accident Claims Tribunal,
Additional Subordinate Court,
Kancheepuram.

Civil Miscellaneous Appeal No.393 of 2024