



Civil Miscellaneous Appeal No.1168 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1168 of 2024

Thangaraj
S/o.Ethiraj

... Appellant

Vs.

1.P.Naresh Kumar
(1st respondent was set *ex parte* in the trial Court)

2.S.Sai Venkatesh

3.The Oriental Insurance Co. Ltd.,
Motor Third Party Hub,
No.216/115, Broadway, 2nd Floor,
Chennai - 600 108.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 25.11.2019 made in M.A.C.T.O.P.No.1841 of 2015 on the file of Motor Accident Claims Tribunal, Special Sub Court No.1, Small Causes Court, Chennai.

For Appellant : Mr.K.V.Muthu Visakan

For Respondents : Mr.N.Sampath [R3]



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JUDGMENT

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The appellant/claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, Special Sub Court No.1, Small Causes Court, Chennai, in M.A.C.T.O.P.No.1841 of 2015, dated 25.11.2019, has filed the present appeal.

2. The case of the claimant is that on 14.12.2014, he was travelling in an auto rickshaw at Medavakkam Tank Road, and at about 20.20 hours, when the auto rickshaw was near the ESI Hospital, Ayanavaram, the offending vehicle which is owned by respondents 1 and 2 was driven in a rash and negligent manner and it dashed the auto rickshaw, as a result of which the vehicle capsized and the claimant sustained 'sterno-clavicular joint dislocation right and 3rd, 4th, 5th & 6th ribs fracture'. The claimant underwent treatment for nearly seven days in the Rajiv Gandhi Government General Hospital and the Medical Board assessed the disability at 25%. It is under these circumstances, the claimant filed the claim petition seeking for compensation.



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3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a categorical conclusion that the accident had taken place only due to the rash and negligent driving of the offending vehicle. After having come to such a conclusion, the Tribunal fixed the total compensation at Rs.1,55,750/- under various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Disability	75,000/-
2.	Pain and Suffering	20,000/-
3.	Loss of future prospects	30,000/-
4.	Loss of earnings	16,000/-
5.	Extra nourishment	10,000/-
6.	Transportation	3,000/-
7.	Attender charges	1,750/-
	Total	1,55,750/-

The above compensation was directed to be paid with interest at 7.5% p.a.



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4. The appellant/claimant, not being satisfied with the quantum of compensation awarded by the Tribunal, has filed the present appeal seeking for enhancement of compensation.

5. Heard Mr.K.V.Muthu Visakan, learned counsel for appellant/claimant and Mr.N.Sampath, learned counsel for third respondent.

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

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

8. The disability of the claimant was assessed at 25%. The Tribunal has fixed only Rs.3,000/- per percentage. In the instant case, the accident took place on 14.12.2014. Considering the judgment of the Division Bench of this Court in C.M.A.No.3334 of 2021 by order dated 15.06.2022 [Future General India Insurance Company Limited v.



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Manivannan and others], the amount per percentage can be fixed at Rs.4,000/-. Thus, the compensation payable under the head 'disability' would be Rs.1,00,000/- [4,000 * 25]. The claimant has suffered serious injuries, which have been extracted supra and he had undergone treatment as an inpatient for nearly seven days. Therefore, this Court is inclined to enhance the compensation under the heads 'pain and suffering', 'extra nourishment' and 'attender charges' to Rs.25,000/-, Rs.15,000/- and Rs.7,000/- respectively. The claimant was a mason. Considering the serious injuries sustained by the claimant, he would have been out of action for nearly six months. The Tribunal has fixed the notional monthly income at Rs.8,000/-. Therefore, this Court is inclined to fix a sum of Rs.50,000/- under the head 'loss of earnings'. The Tribunal has not granted any compensation under the head 'damage to clothes'. Hence, this Court is inclined to award a sum of Rs.1,500/- under this head.

9. The compensation awarded under the other heads is justified and does not require the interference of this Court.



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10. In the light of the above discussion, this Court modifies the compensation in the following manner:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	Disability	75,000/-	1,00,000/-
2.	Pain and Suffering	20,000/-	25,000/-
3.	Loss of future prospects	30,000/-	30,000/-
4.	Loss of earnings	16,000/-	50,000/-
5.	Extra nourishment	10,000/-	15,000/-
6.	Transportation	3,000/-	3,000/-
7.	Attender charges	1,750/-	7,000/-
8.	Damage to clothes	-	1,500/-
	Total	1,55,750/-	2,31,500/-

11. The compensation awarded by the Tribunal at Rs.1,55,750/- is enhanced to Rs.2,31,500/-. The third 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 (4) weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.75,750/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay of 1218 days as was ordered by this Court



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in C.M.P.No.21613 of 2023 in C.M.A.Sr.No.118928 of 2023 dated 24.04.2024. 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.

In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

07.06.2024

Speaking Judgment/Non-speaking Judgment
Index :Yes/No
Neutral citation: Yes/No
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To
The Motor Accident Claims Tribunal,
Special Sub Court No.1,
Small Causes Court, Chennai.



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N.ANAND VENKATESH, J.

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