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CMA.No.640 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2024

CORAM:

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

CMA.No.640 of 2023

S.D.Mukesh Kanna

... Appellant

-Vs-

1.E.Mohan
2.National Insurance Company Limited,
Third Party Claims Office,
Regina Mansion, 3rd Floor,
No.46, Moore Street,
Chennai – 600 001.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 04-01-2021 made in M.C.O.P.No.2519 of 2016 on the file of Motor Accident Claims Tribunal (III Small Causes Court), Chennai.

For Appellant	: Mr.Varadha Kamaraj
For R1	: No appearance
For R2	: Mr.M.Krishnamoorthy



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JUDGMENT

Challenging the quantum of compensation awarded by the Tribunal in MCOP.No.2519 of 2016, the appellant/claimant has filed the present appeal.

2.The appellant is the claimant in MCOP.No.2519 of 2016 on the file of Motor Accidents Claims Tribunal, III Small Causes Court, Chennai. He filed the above said claim petition, claiming a sum of **Rs.25,00,000/-** as compensation for the injuries he has suffered in an accident that took place on 13.02.2016.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of **Rs.1,73,400/-** as compensation to the appellant.



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4. Not being satisfied with the amounts awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5. The learned counsel for the appellant submitted that the accident occurred on 13.02.2016. Due to the said accident, the appellant sustained severe injuries and the medical board assessed his disability at 15%. There is no dispute with regard to the negligence. The only issue raised is with regard to the quantum of compensation awarded by the Tribunal.

6. The learned counsel for the appellant claimant would further submit that the Tribunal has refused to apply the multiplier method and awarded the compensation based on percentage method. The Tribunal had awarded a sum of Rs.3,000/- for every percentage of disability and accordingly awarded a sum of Rs.45,000/- towards disability. He therefore, pleaded that multiplier method be adopted for calculating the compensation payable to the appellant/claimant.



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7.The learned counsel for the second respondent/insurance company would submit that any reasonable amount may be awarded towards disability. He however, pleaded that the compensation awarded by the Tribunal under other heads of compensation are just and fair and the same may be confirmed.

8.Considered the submissions made by the learned counsel for the appellant as well as the second respondent.

9.There is no dispute with regard to the occurrence of the accident in the year 2016 or with regard to the fixation of liability. The dispute is only with regard to the quantum of compensation awarded by the Tribunal. For 15% disability, the Tribunal had awarded compensation based on percentage method and awarded Rs.3,000/- for every percentage of disability, which appears very low. Therefore, this Court now awards a sum of Rs.5,000/- for every percentage of disability, which would be just and fair. Accordingly, a sum of Rs.75,000/- is awarded towards disability.



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10. With regard to the compensation awarded by the Tribunal under other heads of compensation are concerned, it is just and fair and the same is confirmed. The compensation now awarded is as below;

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Towards Pain and Sufferings	30,000/-	30,000/-	Confirmed
2.	Towards Extra Nourishment and Transport expenses	30,000/-	30,000/-	Confirmed
3.	Disability (15%)	45,000/-	75,000/-	Enhanced
4.	Medical Expenses	2000/-	2,000/-	Confirmed
5.	Loss of Amenities	30,000/-	30,000/-	Confirmed
6.	Attender Charges	5,400/-	5,400/-	Confirmed
7.	Damages to clothes	1,000/-	1,000/-	Confirmed
8.	Loss of income for 2 months	30,000/-	30,000/-	Confirmed
	Grand Total	1,73,400/-	2,03,400/-	Enhanced by 30,000/-



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11.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,73,400/- is hereby enhanced to Rs.2,03,400/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The 2nd respondent-Insurance Company is directed to deposit the award amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of **six weeks** from the date of receipt of a copy of this judgment to the credit of **M.C.O.P.No. 2519 of 2016** on the file of the Motor Accidents Claims Tribunal (III Small Causes Court), Chennai . 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 **three weeks**. The appellant/claimant shall pay necessary Court fee, if any, on the enhanced compensation. However, it is made clear that if there is any delay in filing the C.M.A. and in case of any earlier order by this Court, depriving interest for the period of delay in question, the interest portion for that period should be excluded for the purpose of granting interest.



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12.Accordingly, the Civil Miscellaneous Appeal is partly allowed.

No costs.

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To

- 1.Motor Accident Claims Tribunal,
III Small Causes Court, Chennai.
- 2.The Section Officer,
V.R.Section, High Court, Madras.



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KRISHNAN RAMASAMY, J.,

Tsg

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