



C.M.A.No.3227 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.3227 of 2024

K.Jayavelu

... Appellant

Vs.

1.K.Knight Durai

2.The Manager,

National Insurance Company Ltd.,

Thiry Party Claim Office,

No.751, Mount Road, Chennai – 600 002.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 19.09.2023 passed in M.C.O.P.No.4978 of 2015 by the Motor Accident Claims Tribunal (In the II-Special Court of Small Causes at Chennai).

For Appellant : Mr.S.Suriyaprakash

For Respondents : Mr.J.Michael Visuvasam [R2]

JUDGMENT

The above appeal is filed by the petitioner/claimant seeking an



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enhancement of the compensation awarded by the Motor Accidents Claims Tribunal, II Special Court of Small Causes, Chennai in M.C.O.P.No.4978 of 2015.

2. The case of the appellant is that, on 26.04.2015 at about 05.15 p.m., when he was riding his motorcycle bearing Regn.No.TN-02-BA-3251 along with one J.Monish as pillion rider at CTH Road, Avadi Battalion gate from east to west, at that time, the first respondent driven his car bearing Regn.No.TN-20-BR-0529, insured with the second respondent, in a very rash and negligent manner and hit behind the motorcycle of the appellant, which resulted the appellant sustaining grievous injuries. Therefore, the appellant had filed a claim petition claiming a sum of Rs.15,00,000/- for the injuries sustained by him in the said road accident.

3. Before the Tribunal, the appellant had examined himself as P.W.1 and examined the pillion rider as P.W.2 and marked 17 documents viz., Ex.P.1 to Ex.P.17. No witnesses were examined nor any documents were marked on the side of the respondents. Apart from that, two documents viz., Ex.C.1 and Ex.C.2 were marked. After adjudication, the



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Tribunal awarded a sum of Rs.66,000/- as compensation to the appellant.

Not satisfied with the same, the appellant has preferred the present appeal seeking enhancement.

4. Learned counsel appearing for the appellant submitted that, at the relevant point of time, per percentage of disability is Rs.5,000/-, however, the Tribunal had awarded a sum of Rs.12,000/- by fixing a sum of Rs.4,000/- per percentage of disability and disability at 3%, which is not sustainable and the same requires to be reconsidered by this Court. Further, the compensation awarded under the other heads is on the lower side, which requires to be enhanced. Accordingly, he prays for appropriate enhancement in favour of the appellant.

5. Learned counsel appearing for the second respondent/Insurance Company submitted that, the amount of Rs.4,000/- awarded per percentage of disability is reasonable and so also the compensation awarded under the other heads, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.

6. Heard the learned counsel appearing for the appellant and



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the learned counsel appearing on behalf of the second respondent and perused the materials available on record.

7. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The only grievance of the appellant/claimant is with regard to the quantum of compensation awarded. In this regard, this Court perused Ex.C.1, which is the disability certificate of the appellant issued by the Medical Board and the same reveals that the appellant had suffered disability of 3%. By considering the said certificate, the Tribunal, had erroneously adopted a sum of Rs.4,000/- per percentage of disability and awarded a sum of Rs.12,000/- towards partial disability. However, as per the existing law at the relevant point of time, the Tribunal ought to have fixed a sum of Rs.5,000/- per percentage of disability. Hence, this Court is inclined to fix a sum of Rs.5,000/- per percentage of disability. Therefore, the amount under the head of partial disability stands enhanced to a sum of Rs.15,000/- (3 x Rs.5,000/- = Rs.15,000/-).

8. Further, the Tribunal had awarded a sum of Rs.20,000/- towards pain and suffering; Rs.8,000/- towards medical expenses;



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Rs.3,000/- towards attendant charges; Rs.3,000/- towards transportation;

Rs.10,000/- towards loss of amenities and Rs.10,000/- towards Extra

Nourishment. This Court finds that the compensation awarded under the head medical expenses is just and reasonable and the same is confirmed.

Since no compensation has been awarded under the head loss of income, this court grants a sum of Rs.10,000/- under this head. Insofar as the compensation awarded towards pain and suffering, attendant charges, transportation and extra nourishment are concerned, this Court feels that a sum of Rs.50,000/-, Rs.5,000/-, Rs.5,000/- and Rs.25,000/- respectively would be just and reasonable compensation.

9. Insofar as the compensation awarded under the head loss of amenities, no compensation can be awarded under such head as the same is not a conventional head, which attract any compensation. Therefore, the compensation awarded under the said head is accordingly set aside.

10. In view of the above, the compensation awarded by the Tribunal is modified as under :-



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<i>S. No.</i>	<i>Description</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
1	Partial Disability (10 x Rs.5,000/-)	12,000/-	15,000/- (enhanced)
2	Pain and suffering	20,000/-	50,000/- (enhanced)
3	Loss of income	---	10,000/- (awarded)
4	Medical expenses	8,000/-	8,000/-
5	Attendant charges	3,000/-	5,000/- (enhanced)
6	Transportation	3,000/-	5,000/- (enhanced)
7	Loss of Amenities	10,000/-	---
8	Extra Nourishment	10,000/-	25,000/- (enhanced)
	Total	66,000/-	1,18,000/-

11. Accordingly, this Civil Miscellaneous Appeal is partly allowed and the impugned award is modified, enhancing the compensation amount from **Rs.66,000/-** to **Rs.1,18,000/-**. The second respondent/Insurance Company is directed to deposit the compensation amount, awarded by this Court, to the credit of M.C.O.P.No.4978 of 2015 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the



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Tribunal, less, the amount, if any already deposited, within a period of four weeks (4) from the date of receipt of a copy of this judgment. 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 two (2) weeks thereafter upon production of proof with regard to payment of Court fee on the enhanced compensation. The appellant/claimant is directed to pay necessary additional Court fee on the enhanced compensation amount. It is made clear that the appellant/claimant will not be entitled to any interest for the delay period. There shall be no order as to costs in the present appeal.

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Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To

The Motor Accident Claims Tribunal, (II Special Court of Small Causes),
Chennai.



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M.DHANDAPANI, J.

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