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CMA.No.2405 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 05.03.2024**

**CORAM:**

**THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY**

**CMA.No.2405 of 2022**

P.Vasudevan

... Appellant

-Vs-

1.A.Bhuvaneshwari

2.The Oriental Insurance Company Ltd.

Motor TP HUB, Oriental House,  
Second Floor, No.115, Broad way,  
Chennai-600 108.

3.Balakrishnan

4.The New India Assurance Company Ltd.,  
Micro Office, Cuddalore road, Vridhachalam.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the fair and decretal award passed by the learned Principle Subordinate Judge, Vridhachalam (Motor Accident Claims Tribunal) dated 30.8.2022 in MCOP 8/2019.

|               |                    |
|---------------|--------------------|
| For Appellant | : Mr.S.Udhayakumar |
| For R1 & R3   | : No appearance    |
| For R2        | : Mr.K.Vinod       |
| For R4        | : Mr.J.Chandran    |



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## **JUDGMENT**

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 30.08.2022 made in MCOP.No.8 of 2019 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Vridhachalam.

2.The appellant is the claimant in MCOP.No.8 of 2019 on the file of *Motor Accidents Claims Tribunal, Principal Subordinate Judge, Vridhachalam*. He filed the above said claim petition, claiming a sum of **Rs.10,00,000/-** as compensation for the injuries sustained by him in an accident that took place on 08.12.2016.

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 1<sup>st</sup> respondent and directed the 2<sup>nd</sup> respondent, insurance company to pay a sum of **Rs.4,60,076/-** as compensation to the appellant.



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4. Not being satisfied with the amount 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 08.12.2016 and that due to the accident, the appellant suffered severe injuries and was admitted as inpatient in the hospital for 150 days. He suffered fractures at four places and steel plates too have been fixed. The Medical Board assessed the disability of the appellant at 42%. The Tribunal applied the percentage method and awarded a sum of Rs.5,000/- for every percentage of disability and accordingly, awarded Rs.2,10,000/- under the head of 'disability', which is on the lower side. In a case of this nature, the Tribunal ought to have applied the multiplier method or awarded higher sum of compensation for every percentage of disability. He further submitted that the compensation awarded by the Tribunal towards future medical expenses, Transport charges and extra nourishment are too low. Hence, he requested to redetermine the compensation awarded by the Tribunal.



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6.The learned counsel for the second respondent insurance company fairly submitted that as far as the fixation of negligence and fastening the liability is concerned, there is no dispute. The dispute is only with regard to the quantum of compensation awarded by the Tribunal. He further submitted that the compensation awarded by the Tribunal is just and fair and that the same be confirmed.

7.This Court considered the submissions of the learned counsel for the appellant as well as the respondents 2 and 4.

8.There is no dispute with regard to the manner in which the accident occurred or as regards fixation of negligence and fastening the liability. The dispute is only with regard to the quantum of compensation awarded by the Tribunal. Due to the accident which occurred on 08.12.2016, the appellant sustained right united femur fracture, left both bone forearm united fracture and left femur shift fracture with hypertrophic nonunion. The Medical Board determined the disability of the appellant at 42%. In the present case, the Tribunal should have



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applied the multiplier method or awarded higher amount for every percentage of disability.

9.Considering the gravity of injury sustained by the appellant, this Court now awards a sum of Rs.6,000 for every percentage of disability. Thus, the compensation awarded by the Tribunal under the head 'disability' is redetermined at Rs.2,52,000/-. Towards pain and suffering, the Tribunal had awarded a sum of Rs.75,000, which appears to be very low. Hence, the same is enhanced to Rs.1,00,000/-. Towards future medical expenses, the Tribunal has awarded a sum of Rs.10,000/- which is on the lower side. Therefore, a sum of Rs.50,000/- is awarded towards future medical expenses. Further the compensation awarded towards transport charges and extra nourishment is very meager. Hence, the compensation awarded under each of these heads is enhanced to Rs.20,000/-.

10.The compensation awarded by the Tribunal under other heads of compensation are just and reasonable and the same stands confirmed. The award of the Tribunal is redetermined as below;



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| S. No | Description             | Amount awarded by Tribunal (Rs) | Amount awarded by this Court (Rs) | Award confirmed or enhanced or reduced or granted |
|-------|-------------------------|---------------------------------|-----------------------------------|---------------------------------------------------|
| 1.    | Disability              | 2,10,000/-                      | 2,52,000/-                        | Enhanced                                          |
| 2.    | Pain and Sufferings     | 75,000/-                        | 1,00,000/-                        | Enhanced                                          |
| 3.    | Loss of Amenities       | 25,000/-                        | 25,000/-                          | Confirmed                                         |
| 4.    | Attender Charges        | 60,000/-                        | 60,000/-                          | Confirmed                                         |
| 5.    | Future Medical Expenses | 10,000/-                        | 50,000/-                          | Enhanced                                          |
| 6.    | Transport charges       | 10,000/-                        | 20,000/-                          | Enhanced                                          |
| 7.    | Extra Nourishment       | 7,500/-                         | 20,000/-                          | Enhanced                                          |
| 8.    | Medical Expenses        | 62,576/-                        | 62,576/-                          | Confirmed                                         |
|       | <b>Total</b>            | <b>Rs.4,60,076/-</b>            | <b>Rs.5,89,576/-</b>              | <b>Enhanced by Rs.1,29,500 /-</b>                 |

11. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at **Rs.4,60,076/-** is hereby enhanced to **Rs.5,89,576/-** together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The 2<sup>nd</sup> respondent/insurance company is directed to deposit the award



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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.8 of 2019** on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Vridhachalam. On such deposit being made, the Tribunal is directed to transfer the entire award amount to the Bank accounts of the Appellant/Claimant through RTGS, within a period of **three weeks thereafter**. 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. No costs.

05.03.2024

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**KRISHNAN RAMASAMY, J.,**

Tsg

To

- 1.Motor Accident Claims Tribunal,  
Principal Subordinate Judge,  
Vridhachalam.
- 2.The Section Officer,  
V.R.Section, High Court, Madras.

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