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Civil Miscellaneous Appeal No.1341 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1341 of 2024

Murugan

... Appellant

Vs.

1. Govindasamy

2. The National Insurance Company Limited
73, Perundurai Road, Erode – 638011

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award in the judgement and decree dated 18.06.2020 made in M.C.O.P.No.212 of 2017 on the file of the Motor Vehicle Accident Claims Tribunal / Special District Judge Court, Erode.

For Appellant : Mr.C.Paraneedharan

For Respondents : Mrs.R.Sreevidhya
for 2nd Respondent

JUDGMENT



the case and on appreciation of oral and documentary evidence came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the rider of the offending vehicle. Having rendered such a finding, the Tribunal determined the total compensation at Rs.1,64,770/- under various heads as follows :-

<i>Sl.No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Extra Nourishment	Rs.5,000/-
2.	Pain and sufferings	Rs.45,000/-
3.	Disability 10%	Rs.30,000/-
4.	Attender charges	Rs.5,000/-
5.	Medical expenses	Rs.44,770/-
6.	Transportation charges	Rs. 5,000/-
7.	Loss of income	Rs.30,000/-
	Total	Rs.1,64,770/-

The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

4. The claimant not being satisfied with the quantum of compensation fixed by the Tribunal has filed this appeal seeking for



enhancement of compensation.

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5. Heard Mr.T.S.Arthanareeswaran, learned counsel for appellant/claimant and Mrs.R.Sreevidhya, learned counsel for 2nd respondent.

6. This Court has 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 Tribunal has adopted per percentage method and has fixed only Rs.3,000/- per percentage. Considering the fact that the accident had taken place in the year 2016 and taking note of the judgement of the Division Bench in CMA No.3334 of 2021 dated 15.06.2022, this Court is inclined to fix Rs.5,000/- per percentage. Accordingly, the compensation under the head of disability is fixed at Rs.50,000/- (10 x 5000).



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9. The claimant has undergone treatment for nearly five days as an in patient and an operation was also performed and hence, this Court is inclined to increase the compensation under the head of extra nourishment to Rs.10,000/-.

10. The claimant was involved in the avocation of wood cutting. Considering the nature of injuries sustained by the claimant, he would not have been able to get back to job atleast for five months and hence, the compensation under the head of loss of income is worked out to Rs.50,000 (Rs.10,000 x 5 months).

11. Insofar as all the other heads are concerned, the compensation fixed by the Tribunal is reasonable and it does not require the interference of this Court.

12. In the light of the above discussion, the compensation fixed by the Tribunal is modified in the following terms :-



<i>Sl.No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Extra Nourishment	Rs.10,000/-
2.	Pain and sufferings	Rs.45,000/-
3.	Disability	Rs.50,000/-
4.	Attender charges	Rs.5,000/-
5.	Medical expenses	Rs.44,770/-
6.	Transportation charges	Rs. 5,000/-
7.	Loss of income	Rs.50,000/-
	Total	Rs.2,09,770/-

13. The compensation awarded by the Tribunal at Rs1,64,770/- is enhanced to Rs.2,09,770/-. 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.64,000/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay of 151 days as was ordered by this Court in C.M.P.No.18866 of 2022, dated 03.06.2024. 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



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to the mode of payment of compensation remains unaltered.

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14. In the result, the Civil Miscellaneous Appeal is partly allowed in the above terms. No costs.

19.06.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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N.ANAND VENKATESH.,J
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To,
Motor Vehicle Accident Claims Tribunal / Special District Judge Court,
Erode.

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19.06.2024