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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1630 of 2024

T.Manimaran

... Appellant

.VS.

1.Anandan

2.The Manager,

HDFC ERGO General Insurance Company Limited,
N0.559, Anna Salai, Teynampet,
Chennai – 600 018.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the decree and judgment dated 27.10.2022 made in MCOP No.1333 of 2017, on the file of the Motor Accident Claims Tribunal (VI Small Causes Court), Chennai.

For Appellant : Mr.D.Rooban Mani

For Respondents : Mr.E.Rajadurai for
Mr.M.B.Raghavan for R2

JUDGMENT

The claimant not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.1333 of 2017, dated 27.10.2022 has filed this appeal seeking for enhancement of compensation.



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2.The case of the claimant is that on 23.01.2017, the claimant was riding a two wheeler and his mother was travelling as a pillion rider from Thiruvallur-Thiruninravur and at about 7.15 p.m., the offending vehicle which was also a two wheeler was coming in the same direction and it dashed on the rear side of the vehicle. As a result of which, both the rider and the pillion rider fell down and sustained injuries. Insofar as the appellant is concerned, he suffered right leg both bone fracture. He underwent treatment as an inpatient for nearly ten days. The Medical Board also assessed the disability at 22%. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3.The Tribunal on considering the facts and circumstances of 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 come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.1,70,444/- under various heads as follows:



S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Medical Expenses	42,444
2.	Transportation Expenses	8,000
3.	Extra Nourishment	7,000
4.	Attender Charges	10,000
5.	Disability & Loss of Income	88,000
6.	Pain and Sufferings	15,000
	Total	1,70,444

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

5.The claimant not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal before this Court seeking for enhancement of compensation.

6.Heard Mr.D.Rooban Mani, learned counsel appearing on behalf of the appellant and Mr.E.Rajadurai, learned counsel appearing on behalf of the 2nd respondent.

7.This Court has carefully considered the submissions made on either side and also the materials available on record.



8.The Tribunal has adopted per percentage method and has fixed only a sum of Rs.4,000/- per percentage. The accident had taken place in the year 2017. Hence, this Court is inclined to fix a sum of Rs.7,000/- per percentage. Accordingly, the compensation under the head of disability is fixed at Rs.1,54,000/- (Rs.7,000/- x 22%).

9.The claimant had undergone treatment as an inpatient for nearly ten days and he had also suffered both bone fracture on the right leg. In view of the same, this Court is inclined to enhance the compensation under the head of extra nourishment and pain and sufferings to Rs.15,000/- and Rs.20,000/- respectively. This Court is also inclined to grant a sum of Rs.15,000/- as compensation under the head of loss of amenities.

10.The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.

11.In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:



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S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Medical Expenses	42,444
2.	Transportation Expenses	8,000
3.	Extra Nourishment	15,000
4.	Attender Charges	10,000
5.	Disability & Loss of Income	1,54,000
6.	Pain and Sufferings	20,000
7.	Loss of Amenities	15,000
	Total	2,64,444

12.The compensation awarded by the tribunal at Rs.1,70,500/- is enhanced to Rs.2,64,444/-. The second respondent insurance company is directed to deposit the enhanced compensation of Rs.2,64,444/-, 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.93,944/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay period of 136 days as was ordered by this Court in C.M.P.No.23424 of 2023, dated 04.06.2024. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants. The other directions issued by the Tribunal with regard to the mode of payment of



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ssr

compensation remains unaltered. The Tribunal has already ordered pay and recovery in this case and therefore, the enhanced compensation that is paid by the Insurance Company is also entitled to be recovered by the Insurance Company from the owner of the offending vehicle.

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

12.07.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
ssr

To

The Motor Accident Claims Tribunal (VI Small Causes Court), Chennai.

CMA No.1630 of 2024