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C.M.A.No.74 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2024

CORAM :

The Hon'ble Mr. Justice Krishnan Ramasamy

C.M.A.No.74 of 2024

L.Jithin Lal

... Appellant/Petitioner

Vs.

1. Dharan Kumar
2. United India Insurance Company Limited.,
Motor Third Party Claim Cell,
No.134, Anna Salai, 4th Floor,
Greens Road, Chennai 600 006.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 to enhance the amount awarded in M.C.O.P.No.5311 of 2014, dated 07.12.2022, on the file of the Motor Accident Claims Tribunal (Small Causes Court, Special Sub Judge No.2), Chennai.

For Appellant : Mr.K.Varadhakamaraj

For R1 : Mr.Adith Narayan
Vijayaraghavan

For R2 : Mr.D.Bhaskaran



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JUDGEMENT

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This Civil Miscellaneous Appeal has been filed by the appellant/claimant, challenging the quantum of the compensation awarded by the Motor Accidents Claims Tribunal, on the file of M.C.O.P.No.5311 of 2014 dated 07.12.2022.

2. On 03.04.2014 at about 01.45 hours, while the appellant/injured was travelling as occupant in the car bearing Reg.No.TN-07-AS-9990 from Vadapalani to Nesappakam on 100 feet road, which was driven by its driver in a rash and negligent manner and dashed against the two stationary vehicle and capsized, due to which, the appellant/injured sustained grievous injuries all over his body. Hence, the claimant/appellant made a claim petition before the Tribunal, claiming a compensation of Rs.25,00,000/-.

3. On consideration of oral and documentary evidence, the Tribunal has awarded a sum of Rs.5,81,800/- towards compensation to the appellant. Not satisfied with the same, the appellant has filed the present appeal.

4. The learned counsel for the appellant submitted that, at the time of accident, the injured/appellant was aged about 23 years, and working as a Manager in Royal Shelter and had earned a sum of Rs.20,000/- per month.



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Without considering the same, the Tribunal had fixed the notional income of the injured at Rs.9,000/- per month and awarded a sum of Rs.18,000/- towards “loss of income”, which is very meager, and the same needs to be modified by this Court. A sum of Rs.25,000/- awarded by the Tribunal under the head of “pain and suffering”, which is also on the lower side, and the same needs to be modified by this Court. Further, he submitted that no amount has been awarded by the Tribunal under the head of “loss of amenities”, and the same can be re-considered by this Court. Accordingly, he prayed for appropriate enhancement in favour of the appellant.

5. Per contra, the learned counsel appearing for the second respondent/Insurance Company submitted that, on consideration of oral and documentary evidence, the Tribunal has taken all the aspects and awarded the compensation under different heads, which is fair and reasonable, and requires no interference. Further, he fairly accepts the said submissions made by the appellant and he requested this Court not to modify any amount towards “disability”, since the Medical Board examined the claimant and fixed the disability at “Nil”.

6. Heard the learned counsel for the appellant and the learned counsel



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

7. The fact and manner of the accident is not disputed by the parties. Therefore, this Court is not dealing with the said aspect. On perusal of the Tribunal award and the submission made by the learned counsel for the appellant and also the suggestion made by the learned counsel for the second respondent, and considering the nature of injuries sustained by the claimant, this Court is inclined to award an additional sum of Rs.50,000/- towards “pain and suffering”. Further, the notional income of the injured at Rs.9,000/- per month fixed by the Tribunal, appears to be low, and this Court feels it appropriate to fix the notional income of the injured at Rs.12,500/- per month and the loss of income during the treatment period of 4 months is arrived at Rs.12,500/-x4=Rs.50,000/-. This Court finds that the Tribunal failed to award any compensation under the heads of “loss of amenities” and “damages to clothes”. Hence, this Court is inclined to award a sum of Rs.25,000/- and a sum of Rs.2,000/- under the above said heads.

8. Insofar as the compensation awarded by the Tribunal under other heads are concerned, this Court finds the same is just and proper and the same



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are hereby confirmed. Thus, the compensation awarded by the Tribunal is

modified as under :-

<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Disability	Nil	Nil
Medical expenses	5,13,558/-	5,13,558/-
Loss of amenities	Nil	25,000/- (awarded)
Loss of earning	18,000/-	50,000/- (enhanced)
Pain and sufferings	25,000/-	75,000/-
Attender charges	7,200/-	7,200/-
Transportation charges	8,000/-	8,000/-
Extra nourishments	10,000/-	10,000/-
Damages to clothes	Nil	2,000/-
Total	5,81,758/-	6,90,758/-
Rounded off	5,81,800/-	6,91,000/-

9. The appeal is partly allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.5,81,800/-** to **Rs.6,91,000/-**. The second respondent/Insurance Company is directed to deposit the said amount along with interest and cost, 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.5311 of 2014 on the file of Small Causes Court, Special Sub Judge No.2, Chennai. Upon such deposit being



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made, the Tribunal is directed to transfer the entire amount to the bank account of the claimant, by way of RTGS, within a period of three weeks from the deposit or from the date of receipt of the Bank details obtained from the claimant or application for withdrawal from the claimant, whichever is later. The appellant/claimant is directed to pay the necessary Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time the certified copy showing proof of payment of Court fee has been produced by the claimant. No costs.

16.02.2024

Index : Yes / No
NCC : Yes / No
jd

To

1. The Motor Accident Claims Tribunal,
Special Sub Judge No.2, Small Causes Court,
Chennai.
2. The Section Officer,
V.R. Section,
High Court, Madras.



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Krishnan Ramasamy,J.,
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