



Civil Miscellaneous Appeal No.1206 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1206 of 2024

K.Anantha Krishnan
S/o.Kothandan

... Appellant

Vs.

1.V.Jagan
S/o.Venkatesan

2.The New India Assurance Com. Ltd.,
Motor Third Party Claims Hub,
No.233, Bombay Mutual Building,
6th Floor, N.S.C. Bose Road,
Chennai - 600 001.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 22.11.2022 made in M.C.O.P.No.5974 of 2017 on the file of Motor Accident Claims Tribunal, Special Sub Judge I, Small Causes Court, Chennai.

For Appellant : Mr.K.Varadhakamaraj

For Respondents : Ms.Rathnathara [R2]

JUDGMENT



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The claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, Special Sub Judge I, Small Causes Court, Chennai, in M.C.O.P.No.5974 of 2017, dated 22.11.2022, has filed this appeal.

2. The case of the claimant is that on 18.09.2017 he was riding his two wheeler at Thiruneermalai main road and at about 13.45 hours, when he was approaching a coffee center, the offending vehicle, which was a lorry and which was owned by the first respondent, was driven in a rash and negligent manner and it hit the two wheeler driven by the claimant, as a result of which the claimant sustained "Head injury with brain stem contusion, bilateral multiplier ribs fracture, left hemopneumothorax with bilateral lung contusion, Grade-III B distal femur fracture right, Grade - III B Proximal Tibia fracture right, degloving injury right lower thigh and proximal leg and knee right CPN Palsy, Type 2 Diabetes Mellitus, Systemic Hypertension, Old CVA, Acute Kidney Injury." The injuries sustained by the claimant was taken into consideration and the Medical Board assessed permanent disability at 50%. The claimant had undergone treatment as an inpatient from 18.09.2017 to 21.10.2017. It is under



these circumstances, the claim petition came to be filed before the Tribunal seeking compensation.

3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a categorical conclusion that the accident had taken place only due to the rash and negligent driving of the lorry. After having come to such a conclusion, the Tribunal fixed the total compensation at Rs.16,81,591/- (rounded off to Rs.16,81,600/-) under various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Medical expenses	13,37,691/-
2.	Disability	2,50,000/-
3.	Pain and sufferings	40,000/-
4.	Loss of amenities	25,000/-
5.	Extra nourishment	15,000/-
6.	Attender charges	9,900/-
7.	Transportation	4,000/-
	Total	16,81,591/-
	Rounded off to	16,81,600/-

The above compensation was directed to be paid with interest at 7.5% p.a.

4. The appellant/claimant, not being satisfied with the quantum of



compensation awarded by the Tribunal, has filed the present appeal seeking for enhancement of compensation.

5. Heard Mr.K.Varadhakamaraj, learned counsel for appellant/claimant and Ms.Rathnathara, learned counsel for second respondent.

6. This Court 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 nature of injuries sustained by the claimant has already been extracted supra. The injuries appear to be grievous in nature and the claimant had underwent treatment as an inpatient for more than 30 days in a private hospital. The Medical Board has assessed 50% permanent disability. The accident had taken place in the year 2017. The Tribunal had fixed only Rs.5,000/- per percentage, which is on the lower side.

9. The Division Bench of this Court in C.M.A.No.3334 of 2021 by



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order dated 15.06.2022 [Future General India Insurance Company Limited v. Manivannan and others] taking into consideration the raise in the cost of living and considering the fact that the accident had taken place in that case in the year 2017, has fixed Rs.7,000/- per percentage of disability. The same can be applied to the facts of the present case also. Thus, the compensation under the head 'disability' can be fixed at Rs.3,50,000/- [7000 * 50].

10. The nature of injuries sustained by the claimant shows that he would have undergone severe pain and suffering. Therefore, this Court is inclined to increase the compensation under the head 'pain and suffering' to Rs.75,000/-. Considering the period for which the claimant had undergone treatment as an inpatient, the compensation under the heads 'extra nourishment' and 'attender charges' can be increased to Rs.25,000/- under each head.

11. In the instant case, the claimant was working as a Senior Manager in a private company and he was earning a periodical monthly salary. There is no question of any loss of income in this case since the monthly salary was regularly paid to the claimant. However, the Tribunal



has fixed the compensation under the head 'loss of amenities' at Rs.25,000/-. On an overall appreciation of the facts and circumstances of the case, the compensation under the head 'loss of amenities' can be fixed at Rs.1,00,000/-.

12. The compensation awarded under the other heads is reasonable and it does not require the interference of this Court.

13. In the light of the above discussion, this Court modifies the compensation in the following manner:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	Medical expenses	13,37,691/-	13,37,691/-
2.	Disability	2,50,000/-	3,50,000/-
3.	Pain and sufferings	40,000/-	75,000/-
4.	Loss of amenities	25,000/-	1,00,000/-
5.	Extra nourishment	15,000/-	25,000/-
6.	Attender charges	9,900/-	25,000/-
7.	Transportation	4,000/-	4,000/-
	Total	16,81,591/-	19,16,691/-
	Rounded off to	16,81,600/-	19,16,690/-

14. The compensation awarded by the Tribunal at Rs.16,81,600/- is



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enhanced to Rs.19,16,690/-. 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 six (6) weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.2,35,090/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay of 175 days as was ordered by this Court in C.M.P.No.23628 of 2023 in C.M.A.Sr.No.128999 of 2023 dated 17.04.2024. 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 to the mode of payment of compensation remains unaltered.

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

11.06.2024

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

The Motor Accident Claims Tribunal,
Special Sub Judge I,
Small Causes Court,
Chennai.

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