



C.M.A.No.2612 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2024

CORAM:

THE HONOURABLE Mr.JUSTICE K.RAJASEKAR

C.M.A.No.2612 of 2022

Baskar

... Appellant /Petitioner

vs.

1.B.Jaganathan
No.4, Block-B, Jamal Splendor,
3rd Floor, Arcot Road,
Kerambakkal, Porur,
Chennai-116.

2.Rliance General Insurance Company Ltd.,
No.6, 6th Floor,
Haddows Road, Nungambakkam,
Chennai-6. ... Respondents / Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the order dated 21.06.2022 made in M.C.O.P.No.7683 of 2018, on the file of MACT/IV-Small Causes Court at Chennai.

For Appellant : Mr.M.Lokesh

For 1st Respondent : No Appearance

For 2nd respondent : Mr.P.Suresh Srinivasan

JUDGMENT

The claimant has come forward with this appeal seeking for enhancement of compensation awarded by Tribunal in M.C.O.P.No.7683



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of 2018 dated 21.06.2022.

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2. According to the claimant, he sustained various injuries in the road accident taken place on 26.10.2018 at about 7.40 p.m., at Thuraipakkam, opposite to Selva Vinayagar Koil, due to the negligent driving of the driver of the 1st respondent. For the injuries sustained, he had filed claim petition for compensation of Rs.14,30,000/- against the respondents 1 and 2 who are the owner and insurer of the offending vehicle.

3. The 1st respondent filed his counter disputing the manner in which the accident had taken place and also disputed the injuries alleged against his driver. The 2nd respondent/Insurance Company contested the claim disputing the manner in which the accident had taken place and also disputed the disability, injuries suffered by the petitioner and also disputed the compensation claimed by the petitioner.

4. Based on the evidence, the Tribunal accepted the claim of the claimant and held that the respondents 1 and 2 are liable to pay compensation for the negligent act of the 1st respondent's driver. The Tribunal has also quantified the compensation and awarded for



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Rs.3,07,057/- along with interest at the rate of 7.5% per annum from the date of petition till date of realisation. Aggrieved over the quantum of compensation, the claimant has filed this appeal seeking enhancement of compensation.

5. The learned counsel for the claimant submitted that the Medical Board assessed the disability of the claimant and fixed 24% as permanent disability. The Tribunal, by adopting the percentage method granted Rs.5,000/- per percentage and awarded Rs.1,20,000/- under the head of disability and the same is not in accordance with law. Further, he submitted that the compensation awarded under the head of Medical Expenses is also to be reconsidered since the Tribunal has not properly given explanation for not accepting the medical bills produced by the claimant. He further submitted that the Tribunal has not awarded compensation for the loss of income during the period of disablement.

6. Per contra, the learned counsel appearing for the Insurance Company submitted that based on the evidence, the Tribunal has rightly fixed the just compensation and there is no ground to enhance the compensation.



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7. I have considered the submissions of both sides and perused the materials.

8. The Tribunal under the head of disability has awarded Rs.1,20,000/-. There is no dispute regarding disability fixed on the claim. The Medical Board assessed his disability on 24% and it is not functional partial disability. The Tribunal has rightly treated the injuries as partial permanent disability. However, its award of Rs.5,000/- per percentage has to be enhanced, considering the date of accident, this Court is inclined to enhance Rs.7,000/- per percentage. Accordingly, the compensation under the head of disability has been fixed as $24\% \times \text{Rs.}7000/- = \text{Rs.}1,68,000/-$.

9. The Tribunal has also come forward to award the compensation under the head attender charges, since claimant has undergone treatment for 54 days as inpatient. But, the compensation was not awarded under the head of loss of income during the period of disability. Considering the fact that the claimant was an inpatient taken treatment for 54 days and thereafter also he took treatment in hospital for removal of implant and surgery was also underwent on 27.10.2018, 10.11.2018, 30.01.2019 and 14.05.2019, I am inclined to grant compensation towards loss of income for six months during the period of disablement. Considering the date of



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accident, notional income is fixed as Rs.13,500/- X 6 months = Rs.81,000/- is awarded. The Tribunal has awarded Rs.3,057/- under the head of medical expenses, in the award, Ex.P14 – Medical Bills were taken into consideration by the Tribunal, wherein, the petitioner produced bills for Rs.1,28,813/-. The Tribunal has not given any reasons for either to reject or for mark the medical bills for Rs.3,057/-.

10. I have carefully analysed the original medical bills marked Ex.P14, it shows that bills dated 27.10.2020, is issued for Rs.176/- whereas, it has been typed as Rs.17,600/- in the consolidated bill statement. Similarly, another bill shows Rs.263/-, it has been recorded as Rs.26,300/-. These type of calculations have been properly analysed by the Tribunal only thereafter, compensation under the Medical Bills has been awarded and I find no infirmity in the award of the Tribunal under the head of medical expenses. In all other aspects, the award of the Tribunal appears to be reasonable and needs no interference. Therefore, the Compensation awarded by the Tribunal is reworked and tabulated as hereunder:



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Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For Disability	Rs. 1,20,000/-	Rs. 1,68,000/-	Enhanced
2	Medical Expenses	Rs. 3,057/-	Rs. 3,057/-	Confirmed
3	Future Medical Expenses	Rs. 40,000/-	Rs. 40,000/-	Confirmed
4	Pain and Suffering	Rs. 30,000/-	Rs. 30,000/-	Confirmed
5	For Transportation Expenses	Rs. 20,000/-	Rs. 20,000/-	Confirmed
6	For Nutrition Expenses	Rs. 20,000/-	Rs. 20,000/-	Confirmed
7	For Damages to clothes	Rs. 2,000/-	Rs. 2,000/-	confirmed
8	For Attender Charges	Rs. 27,000/-	Rs. 27,000/-	Confirmed
9	For Loss of Amenities	Rs. 30,000/-	Rs. 30,000/-	Confirmed
10	For Mental Agony	Rs. 15,000/-	Rs. 15,000/-	Confirmed
11	For Loss of Income during treatment period(Rs.13500/- X 6 months)	-	Rs. 81,000/-	Granted
	Total	Rs. 3,07,057/-	Rs.4,36,057/-	

11. Thus, the compensation awarded by the Tribunal is enhanced from Rs.3,07,057/- to Rs.4,36,057/- which would carry interest at the rate of 7.5% per annum from the date of petition till the date of realisation



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except the default period if any.

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12. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.3,07,057/- to Rs.4,36,057/-.

(iii) The 2nd respondent / Insurance Company is directed to deposit the enhanced compensation amount i.e., Rs.4,36,057/- (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.7683 of 2018, on the file of MACT/IV-Small Causes Court at Chennai, within a period of six weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the claimant is permitted to withdraw the amount now determined by this Court, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal. The claimant is directed to pay the Court fee for the enhanced compensation amount, if required.

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Index : Yes

Speaking order : Yes



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To:

1. The Motor Accident Claims Tribunal,
IV-Small Causes Court at Chennai.
2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.

K.RAJASEKAR, J.,

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