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C.M.A.No.3453 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3453 of 2024

Ramasamy
S/o.Raman

... Appellant / Petitioner

Vs.

1.Arunkumar

2.Mubarak

3.The New India Assurance Company Limited,
184, Coimbatore Main Road, near Axis Bank,
Mettupalayam, Coimbatore-641 301. ... Respondents / Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 01.03.2024 made in M.C.O.P.No.148 of 2022 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Mettupalayam.

For Appellant : Mr.T.S.Arthanareeswaran

For Respondents : Mrs.C.Sukumari for R3



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J U D G M E N T

The appellant / claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, Subordinate Court, Mettupalayam, in M.C.O.P.No.148 of 2022, dated 01.03.2024, has filed this appeal.

2. On 13.10.2022, when the claimant was going in a two-wheeler from Karamadai to Mangalakkaraipudur, an auto belonging to the first respondent driven by himself came in a rash and negligent manner and dashed against the claimant's vehicle, due to which, the claimant sustained grievous injuries. Under these circumstances, the claim petition came to be filed before the Tribunal seeking for compensation.

3. Before the Tribunal, on the side of the claimant, P.W.1 was examined and Exs.P1 to P16 were marked. On the side of the respondents, no witness was examined and no document was marked. The Tribunal, on



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considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, awarded a sum of Rs.2,20,250/- under various heads. The above compensation was directed to be paid by the second respondent, who is the policy holder of the vehicle, along with interest at 7.5% p.a.

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

5. The learned counsel appearing for the appellant submitted that the appellant was working as a Painter and was earning Rs.27,000/- per month and due to rash and negligent driving of the first respondent, the appellant sustained grievous injuries. When the doctor has clearly deposed about the disability suffered by the claimant, the amount of Rs.5,000/- per percentage of disability awarded by the Tribunal is wholly inadequate. Further, the amount awarded under the other heads is also very meagre.



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Hence, the learned counsel for the appellant prays for enhancement of compensation.

6. The first and second respondents remained *ex-parte* before the Tribunal.

7. Per contra, learned counsel appearing for the third respondent / Insurance company denied the manner of accident and claimed that the accident took place only negligence of the claimant and the compensation awarded by the Tribunal is also on the higher side.

8. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

9. In the instant case, the accident had taken place in the year 2022. However, the Tribunal, while adopting the per percentage method, has



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fixed only a sum of Rs.5,000/- per percentage for granting compensation under the head 'disability'. As the years progress, the amount that is fixed per percentage must also increase considering the cost of living and therefore, this Court is inclined to fix an amount of Rs.10,000/- per percentage. Accordingly, the compensation under the head 'disability' is fixed at Rs.1,70,000/- (Rs.10,000/- * 17%). Insofar as the compensation awarded under the head 'pain and sufferings' is concerned, the same is on the lower side and it is enhanced to Rs.35,000/-. The compensation that has been awarded under the other heads is just and reasonable and does not require the interference of this Court.

10. In the above circumstances, the compensation awarded by the Tribunal under the below mentioned heads is modified as under:

<i>S.No</i>	<i>Head of Compensation</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
1	Loss of income during treatment period	Rs.30,000/-	Rs.30,000/-



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<i>S.No</i>	<i>Head of Compensation</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
2	Partial permanent disability (Rs.10,000/- * 17)	Rs.85,000/-	Rs.1,70,000/-
3	Transportation Expenses	Rs.1,000/-	Rs.1,000/-
4	Extra Nourishment	Rs.3,000/-	Rs.3,000/-
5	Damages to clothes	Rs.1,000/-	Rs.1,000/-
6	Attender Charges	Rs.1,250/-	Rs.1,250/-
7	Medical Expenses	Rs.79,000/-	Rs.79,000/-
8	Pain and Sufferings	Rs.20,000/-	Rs.35,000/-
	Total	Rs.2,20,250/-	Rs.3,20,250/-

12. In the result, this Civil Miscellaneous Appeal is allowed in part and the compensation awarded by the Tribunal at Rs.2,20,250/- is hereby enhanced to Rs.3,20,250/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. The second respondent is directed to deposit the entire award amount now determined by this Court along with interest and costs, less the amount already



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deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.148 of 2022 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Mettupalayam. On such deposit, the appellant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn, by making proper application before the Tribunal. The other directions issued by the Tribunal with regard to the mode of payment of compensation remain unaltered. In case the second respondent fails to deposit the award amount, it is open to the appellant/claimant to work out his remedy in the manner known to law. No costs.

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NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No
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To

1. The Motor Accidents Claims Tribunal,
Subordinate Court, Mettupalayam.
2. The Section Officer,
V.R. Section,
High Court, Chennai.



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M.DHANDAPANI, J.

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