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C.M.A.No.507 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2024

CORAM :

The Hon'ble Mr. Justice Krishnan Ramasamy

C.M.A.No.507 of 2023

Renukula Venkatesulu

... Appellant/Petitioner

Vs.

1. A.Lokaiah
2. National Insurance Co.Ltd.,
No.66, Greams Road,
Murugesan Naicken Complex,
1st Floor, Chennai 600 006.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the Judgment and Decree dated 21.03.2022 passed in M.C.O.P.No.4476 of 2019 by the Motor Accident Claims Tribunal, Chennai (in the II Court of Small Causes).

For Appellant	: Ms.A.Subadra for Mr.C.Richard Suresh Kumar
For R1	: Unclaimed, No appearance
For R2	: Mr.C.Johnson



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JUDGEMENT

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This Civil Miscellaneous Appeal has been preferred by the claimant, challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai in M.C.O.P.No.4476 of 2019 dated 21.03.2022.

2. On 07.07.2019 at about 6.00 p.m., when the claimant/injured was walking on the Sathyavedu to Dasukuppam main road, the driver of the car, bearing Reg.No.TN-13-K-9567, drove the vehicle in a rash and negligent manner and dashed against the claimant. Due to said accident, the claimant sustained grievous injuries all over his body. Thereafter, the claimant has filed a claim petition before the Tribunal, claiming a compensation of Rs.30,00,000/-.

3. The learned counsel for the appellant submitted that, at the time of accident, the appellant was working as a garden maintainer and earning Rs.20,000/- per month. However, without considering the same, the Tribunal has fixed the notional monthly income of the appellant at Rs.10,000/- per month, which is on the lower side, and the same is required to be re-considered by this Court. Further, the learned counsel contended that, the claimant is in



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bed-ridden, the Tribunal has not awarded any amount under the head of “future medical expenses”. Accordingly, she prayed for appropriate enhancement in favour of the appellant.

4. Per contra, the learned counsel appearing for the second respondent/Insurance Company submitted that, any fair amount towards notional income may be re-determined by this Court.

5. Heard the learned counsel for the appellant and the learned counsel appearing on behalf of the second respondent and perused the materials available on record.

6. The fact and manner of the accident is not disputed by the parties. Therefore, this Court is not dealing with the said aspect. The only grievance of the appellant is with regard to the quantum of compensation awarded. It is claimed by the appellant that though the appellant was aged 57 years at the time of accident and had earned a sum of Rs.20,000/- as his monthly income, without considering the same, the Tribunal had fixed the notional income at Rs.10,000/-. This Court finds some force in the said submission made by the learned counsel for the appellant. Therefore, this Court is of the view that the



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notional monthly income of the appellant fixed by the Tribunal is very low and

the same is required to be modified. Applying the ratio laid down by the

Hon'ble Apex Court in a catena of judgments, this Court feels it appropriate to

fix notional monthly income at Rs.15,000/- per month and adding future

prospects at 10% as has been held by the Hon'ble Apex Court, the total income

of the claimant is quantified at Rs.16,500/- per month. The Medical Board

assessed and fixed the functional disability of the claimant at 90%, which

stands confirmed. The injured was aged about 57 years at the time of accident

as evidenced from the records, adopting the multiplier of 9 as per the decision of

the Apex Court, the loss of earning due to disability is arrived at Rs.16,500/-

$\times 12 \times 9 \times (90/100) = \text{Rs.}16,03,800/-$. Thus, a sum of **Rs.10,69,200/-** awarded by

the Tribunal under the head of “loss of earning due to disability” is hereby

modified as **Rs.16,03,800/-**.

7. Insofar as the compensation awarded by the Tribunal under other

heads are concerned, this Court finds that the same are just and proper and are

hereby confirmed. The Tribunal has not awarded any amount towards “future

medical expenses”. Taking into consideration and nature of the injuries

sustained by the claimant, and as on date, the injured is bed-ridden, this Court

is inclined to award a sum of **Rs.1,50,000/-** towards “future medical expenses”.



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8. For the foregoing reasons, 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>
Total loss of earning due to disability	10,69,200/-	16,03,800/- (enhanced)
Medical expenses	2,32,115/-	2,32,115/-
Attender charged	60,000/-	60,000/-
Pain and sufferings	1,50,000/-	1,50,000/-
Extra Nourishment	20,000/-	20,000/-
Transportation	15,000/-	15,000/-
Future medical expenses	Nil	1,50,000/- (granted)
Total	15,46,315/-	22,30,915/-
Rounded off		22,31,000/-

9. The appeal is partly allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.15,46,315/-** to **Rs.22,31,000/-**. 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.4476 of 2019 on the file of II Court of Small Causes, Chennai. Upon such deposit being made, the Tribunal is directed to transfer the entire amount to the bank account of the claimant, by way of



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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 claimants. No costs.

31.01.2024

Index : Yes / No
NCC : Yes / No
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To

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



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Krishnan Ramasamy,J.,

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