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CMA.No.2908 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE. R.HEMALATHA

C.M.A.No.2908 of 2024

C.Durai

... Appellant

Vs.

1.S.Prabakaran

2.Iffco-Tokio General Insurance Company Limited,

No.128, 4th Floor,

Iffco Bhavan,

Habibullah Road, T.Nagar,

Chennai – 600 017.

... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 12.07.2024 in M.C.O.P.5156 of 2022 on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai.

For Appellant : Mr.M.Karuppaiah

For R2 : Mr.J.Michael Visuvasam



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JUDGMENT

The appellant is the claimant in M.C.O.P.5156 of 2022 on the file of the Motor Accident Claims Tribunal, Small Causes Court, Chennai. He filed the claim petition under Section 166 of the Motor Vehicles Act, seeking compensation of Rs.7,00,000/- for the injuries sustained by him in a road accident that took place on 17.09.2022.

2. The brief case of the appellant / claimant is as follows :

On 17.09.2022, the claimant was walking along Chidambaram – Trichy highways and at about 6.45 p.m., a speeding tipper lorry bearing Registration Number TN-61-R-2300 hit a two wheeler bearing Registration Number TN-46-F-3916 which in turn hit him and he sustained injuries all over his body. He was immediately rushed to Government Hospital, Ariyalur

2.1. According to the claimant, the rash and negligent driving of the driver of the tipper lorry bearing Registration Number TN-61-R-2300 was the cause of accident and that since the said vehicle was insured with the second respondent, the Iffco-Tokio General Insurance Company



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Limited, the owner and the insurer are jointly and severally liable to pay compensation to him.

3. In the Tribunal the owner of the tipper lorry remained absent and was set *ex parte*. The second respondent, the Iffco-Tokio General Insurance Company Limited resisted the claim petition on all the grounds available to the insurer under Section 170 of the Motor Vehicles Act.

4. The Tribunal, vide its orders dated 12.07.2024, fastened negligence on the part of the driver of the tipper lorry bearing Registration Number TN-61-R-2300 and further held that the owner of the tipper lorry and the insurer are jointly and severally liable to pay compensation of Rs.82,000/- to the appellant (claimant) together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation.

5. Aggrieved over the quantum of compensation awarded by the Tribunal, the appellant (claimant) has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.



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6. Heard Mr.M.Karuppaiah, learned counsel appearing for the appellant and Mr.J.Michael Visuvasam, learned counsel appearing for the second respondent.

7. A perusal of the records shows that the claimant was admitted as an in-patient in Tanjore Medical College Hospital from 21.09.2022 to 28.09.2022. He sustained zygomatic fracture. The Medical Board attached to Government Royapettah Medical College Hospital had assessed the partial permanent disability of the claimant as 6%. Since there is no functional disability, the Tribunal fixed a sum of Rs.7,000/- per percentage of disability and awarded a sum of Rs.42,000/- towards partial permanent disability. However, the Tribunal did not award any amount towards loss of income and loss of amenities. According to the claimant, he was aged about 56 years on the date of accident and was a daily wager earning a sum of Rs.700/- per day. The accident took place in the year 2022. Considering the age of the claimant and the year of the accident, this Court is of the opinion that fixing notional monthly income of the claimant as Rs.16,000/- would meet the ends of justice. On account



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of the accident, the appellant would not have been in a position to attend to his regular work atleast for three months. Thus, a sum of Rs.48,000/- (16,000 x 3= 48,000) is awarded towards loss of income and a sum of Rs.10,000/- is awarded towards loss of amenities. The following tabular column would show the amount awarded by the Tribunal and the amount awarded by this Court under various heads.

<i>S.No</i>	<i>Heads</i>	<i>Amount awarded by Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
1.	Partial permanent disability	42,000/-	42,000/-
2.	Pain and sufferings	25,000/-	25,000/-
3.	Transportation charges	5,000/-	5,000/-
4.	Extra nourishment	5,000/-	5,000/-
5.	Attender's charges	5,000/-	5,000/-
6.	Loss of income	-	48,000/-
7.	Loss of amenities	-	10,000/-
TOTAL		Rs.82,000/-	Rs.1,40,000/-



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9. Thus, the compensation awarded by the Tribunal is enhanced to Rs.1,40,000/- that would carry interest at the rate of 7.5% per annum.

10. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed. No costs.
- ii. The compensation awarded by the Tribunal is enhanced to Rs.1,40,000/-.
- iii. The appellant / claimant is directed to pay the Court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after receipt of Court fee.
- iv. The second respondent, the Iffco-Tokio General Insurance Company Limited, Chennai, is directed to deposit the enhanced compensation amount, i.e., Rs.1,40,000/- (less the amount already deposited) 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.5156 of 2022 on the file of the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai, within a period of four weeks from the date of receipt of a copy of this order / uploading of



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this order.

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- v. On such deposit being made, the appellant / claimant is at liberty to withdraw the same, after following due process of law.

30.10.2024

Index:Yes/No

Speaking/non Speaking order

Neutral Case citation: yes/no

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To

1. The Motor Accident Claims Tribunal,
IV Small Causes Court, Chennai,

2.Iffco-Tokio General Insurance Company Limited,
No.128, 4th Floor,
Iffco Bhavan,
Habibullah Road, T.Nagar,
Chennai – 600 017.

3. The Section Officer, V.R. Section, High Court, Madras.



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R.HEMALATHA, J

mtl

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