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C.M.A.No.3008 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3008 of 2024

A.Prasanth

... Appellant

Vs.

1.Ashok Kumar

2.IFFCO TOKIO General Insurance Company Limited,
No.128, IV 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, to allow the appeal and enhance compensation in M.C.O.P.No.2582 of 2021 dated 07.08.2024 on the file of the Motor Accidents Claims Tribunal / Special Sub Court No.1, Court of Small Causes, Chennai.

For Appellant : Mrs.Ramya V. Rao

For Respondents : Mr.J.Michael Visuvasam for R2



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J U D G M E N T

This appeal has been filed against the judgment and decree dated 07.08.2024 passed by the Motor Accidents Claims Tribunal / Special Sub Court No.1, Court of Small Causes, Chennai, in M.C.O.P.No.2582 of 2021.

2.The learned counsel appearing for the appellant submitted that on 22.04.2021, at about 10.30 p.m., the appellant was travelling as pillion rider in the motorcycle bearing registration no.TN-09-BT-6315 towards Anna Salai North to South direction near M.G.R. Statue. At that time, a motorcycle bearing Registration No.TN-09-CW-5337 owned by the first respondent and insured with the second respondent came in a rash and negligent manner and hit the motorcycle in which the appellant was travelling as pillion rider, due to which, the appellant sustained injuries.

3.The learned counsel appearing for the appellant further submitted that thereafter, the injured claimant/ appellant filed claim petition before the Tribunal, claiming compensation of Rs.10 Lakhs. After adjudication, the Motor Accidents Claims Tribunal awarded a



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of Rs.2,76,700/- rounded off to Rs.2,77,000/- with interest at the rate of 7.5% p.a. from the date of filing of the claim petition i.e., 29.06.2021 till the realization and costs and directed the second respondent to deposit the compensation at the first instance with a liberty to recover the same from the first respondent according to law. Aggrieved by the same, the appellant claimant has filed this appeal for enhancement in compensation.

4.The learned counsel appearing for the appellant further submitted that the appellant has filed this appeal questioning the quantum of compensation awarded by the Tribunal. The learned counsel further submitted that the Medical Board assessed the disability of the appellant as 30%. Though the accident is of the year 2021, the Tribunal awarded only Rs.5,000/- per percentage of disability and awarded meagre compensation for disability which is not sustainable one and further submitted that the compensation awarded under the other heads also are meagre.

5.The learned counsel appearing for the second respondent



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Insurance Company submitted that the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference.

6.Heard the learned counsel appearing for the appellant claimant as well as the learned counsel appearing for the second respondent Insurance Company and perused the materials available on record.

7.This appeal has been filed only questioning the quantum of compensation awarded by the Tribunal. Hence, there is no need for any discussion with regard to negligence aspect.

8.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.1,50,000/- for disability, Rs.40,000/- for pain and sufferings, Rs.4,000/- for transportation, Rs.10,000/- for extra nourishment, Rs.2,700/- for attender charges, Rs.25,000/- for loss of earning, Rs.15,000/- for loss of amenities, Rs.30,000/- for future medical expenses and arrived at a total compensation of Rs.2,76,700/- rounded of to Rs.2,77,000/- with interest at the rate of



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7.5% p.a. from the date of filing of the claim petition i.e., 29.06.2021 till the realization.

9.The Medical Board assessed the disability of the injured claimant as 30% disability. At the relevant point of time Rs.9,000/- per percentage of disability was awarded. Hence, the amount awarded for disability works out to Rs.2,70,000/- [30% X Rs.9,000/- = Rs.2,70,000/-].

10.The amount awarded under the heads pain and sufferings, transportation, extra nourishment, attender charges, loss of earning, in the opinion of this Court are low and this Court is inclined to enhance the amount awarded under the said heads. Accordingly, the amount awarded for pain and sufferings is enhanced to Rs.75,000/- from Rs.40,000/-, the amount awarded for transportation is enhanced to Rs.5,000/- from Rs.4,000/-, the amount awarded for extra nourishment is enhanced to Rs.20,000/- from Rs.10,000/-, the amount awarded for attender charges is enhanced to Rs.10,000/- from Rs.2,700/-, the amount awarded for loss of earning is enhanced to Rs.35,000/- from Rs.25,000/-. The amount awarded under the heads loss of amenities and future medical expenses, in the opinion of this Court are not necessary and the same are deleted.



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11. Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Disability	Rs.1,50,000/-	Rs.2,70,000/-
2.	Pain and sufferings	Rs. 40,000/-	Rs. 75,000/-
3.	Extra nourishment	Rs. 10,000/-	Rs. 20,000/-
4.	Transportation	Rs. 4,000/-	Rs. 5,000/-
5.	Attender charges	Rs. 2,700/-	Rs. 10,000/-
6.	Loss of earnings	Rs. 25,000/-	Rs. 35,000/-
7.	Future medical expenses	Rs. 30,000/-	---
8.	Loss of amenities	Rs. 15,000/-	---
	Total	Rs.2,76,700/-	Rs.4,15,000/-

12. The appellant claimant is entitled to total compensation of Rs.4,15,000/- along with interest at the rate of 7.5% p.a. from the date of filing of the claim petition i.e., 29.06.2021 till the realization. The pay and recovery ordered by the Tribunal is confirmed.

13. The civil miscellaneous appeal is partly allowed. The judgment and decree dated 07.08.2024 passed by the Motor Accidents Claims Tribunal / Special Sub Court No.1, Court of Small Causes, Chennai, is modified to the above extent.



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14.The second respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such deposit being made, the appellant/ claimant is permitted to withdraw the modified/ enhanced award amount, along with accrued interest and costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal.

15.The appellant/ claimant shall not be entitled to any interest for the period of delay, if any, in filing/ representing the appeal. The appellant/ claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accidents Claims Tribunal/ Special Sub Court No.1, Court of Small Causes, Chennai, shall disburse the compensation amount upon production of certified copy showing proof of payment of Court fee by the appellant/ claimant.

16.The civil miscellaneous appeal is partly allowed. No costs.



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

M.DHANDAPANI,J.
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To

1.The Subordinate Judge /
Special Sub Court No.1,
Court of Small Causes, Chennai.

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