



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1635 of 2024

Raghupathi @ Raghupathiraja

... Appellant

.VS.

V.B.Vignesh Vinothkumar (Died)

1.HDFC ERGO General Insurance Co., Ltd.,
P.R.Towers, II Phase, 2nd Floor,
No.94/95, TVK Industrial Estate,
Guindy, Chennai - 600 032.

2.Baskar

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree in MCOP No.3389 of 2018, dated 16.02.2023 on the file of Motor Accident Claims Tribunal/III Court of Small Causes, Chennai.

For Appellant : Ms.Ramya V.Rao

For Respondents : Mr.N.Somasundar for R1



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JUDGMENT

The claimant not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.3839 of 2018, dated 16.02.2023 has filed this appeal seeking for enhancement of compensation.

2.The case of the claimant is that on 22.12.2016, he was riding a two wheeler at Velachery Main Road and at about 21:30 hours, when the two wheeler was approaching towards Tambaram, the offending vehicle which came in the opposite direction was driven in a rash and negligent manner and it dashed on the two wheeler. As a result of which, the claimant fell down from the vehicle and he sustained RTA with fracture left clavicle. The claimant underwent treatment for one day in hospital. The Medical Board assessed the disability at 3%. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.



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3.The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the offending vehicle. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.59,800/- (Rounded off Rs.59,000/-) under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Disability	15,000
2.	Pain and Sufferings	10,000
3.	Transportation	4,000
4.	Medical Expenses	2,451
5.	Extra Nourishment	5,000
6.	Attender Charges	300
7.	Damages of clothes	1,000
8.	Loss of Amenities	10,000
9.	Loss of Earnings	12,000
	Total	59,751
	Rounded off	59,800



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4.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

5.The claimant not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal before this Court seeking for enhancement of compensation.

6.Heard Ms.Ramya V. Rao, learned counsel appearing on behalf of the appellant and Mr.N.Somasundar, learned counsel appearing on behalf of the 1st respondent.

7.This Court has carefully considered the submissions made on either side and also the materials available on record.

8.In the considered view of this Court, except for the compensation fixed under the head of disability, this Court does not find any ground to enhance the compensation under the other heads. The claimant was assessed 3% disability. The accident had taken place on 22.12.2016. The Tribunal while applying per percentage method has



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fixed only a sum of Rs.5,000/- per percentage. The same can be enhanced to Rs.7,000/- per percentage. Thus, the compensation under the head of disability is fixed at Rs.21,000/- (Rs.7000 x 3%).

9.In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Disability	21,000
2.	Pain and Sufferings	10,000
3.	Transportation	4,000
4.	Medical Expenses	2,451
5.	Extra Nourishment	5,000
6.	Attender Charges	300
7.	Damages of clothes	1,000
8.	Loss of Amenities	10,000
9.	Loss of Earnings	12,000
	Total	65,751
	Rounded off	65,800

10.The compensation awarded by the tribunal at Rs.59,800/- is enhanced to Rs.65,800/-. The respondent insurance company is directed



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N. ANAND VENKATESH., J

SSR

to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

11. In the result, the Civil Miscellaneous Appeal is partly allowed.

No costs.

26.07.2024

Index : Yes/No

Speaking Order/Non-Speaking Order

Neutral citation : Yes/No

SSR

To

The Motor Accident Claims Tribunal/III Court of Small Causes, Chennai.

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