



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.No.2783 of 2023

T.Mani

.. Appellant

Vs.

1.V.Rajesh

2. The Manager,
HDFC ERGO General Insurance Company Limited,
New No.528, Old No.559, 2nd Floor,
Anna Salai, Teynampet,
Guindy Industrial Estate,
Guindy, Chennai- 600 018.

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 13.06.2023 made in M.C.O.P.No.6825 of 2018, on the file of Motor Accidents Claims Tribunal/VI Small Causes Court, Chennai.

For Appellant : Mr.M.Lokesh
for Mr.V.Thamizhanban
For Respondents : Mr.M.Somasundar (R2)

J U D G M E N T



This Civil Miscellaneous Appeal has been filed seeking for enhancement of compensation granted by the award dated 13.06.2023 made in M.C.O.P.No.6285 of 2018 on the file of Motor Accident Claims Tribunal, VI Small Causes Court, Chennai.

2. The Appellant is the Claimant in M.C.O.P.No.6285 of 2018 on the file of the Motor Accident Claims Tribunal/VI Court of Small Causes, Chennai. He filed the above said claim petition, claiming a sum of Rs.6,00,000/- as compensation on account of the injuries sustained by him in an accident that took place on 29.08.2018.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the car bearing registration No.TN-05-AC-6991, who is the 1st Respondent herein and directed the 2nd respondent-Insurance Company to pay a sum of Rs.1,60,000/- as compensation to the Appellant/Claimant.

4.Not being satisfied with the amounts awarded by the Tribunal, the Appellant has come out with the present appeal seeking enhancement of



compensation.

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5.The learned counsel appearing for the Appellant contended that at the time of accident, the Appellant/Claimant was working as a driver, and due to the aforesaid accident, he sustained left medical Malleolar fracture in the left leg and loss of tissue and underwent tissue transplation, as a result of which, he was not able to continue his avocation as earlier, but the Tribunal without considering the same has fixed only a sum of Rs.4,000/- per percentage while assessing the compensation towards Disability which is very low and hence requested this Court to fix a sum of Rs.7,000/- per percentage of disability. In support of his contention, he relied upon the Judgment of Division Bench of this Court in the case of ***Future General India Insurance Company Limited Vs. Manivannan (C.M.A.No.3334 of 2021 dated 15.06.2022)***, wherein notional income of the injured was fixed at Rs.7,000/- per percentage for the accident that occurred on 27.05.2017. It is the further contention of the learned counsel for the Appellant that though the Appellant/Claimant at the time of accident, was working as a driver and was earning a sum of Rs.15,000/- per month, the Tribunal without considering the same has fixed the notional monthly income of the Claimant at Rs.10,000/- per month and granted a sum of Rs.30,000/- (10,000x3) under the head Loss of Income (for



three months) which is very low and hence requested this Court to fix a sum of Rs.15,000/- as notional monthly income of the Claimant and that apart, the compensation awarded towards Attender Charges is very low and therefore seeks to enhance the same. He further submitted that the compensation awarded by the Tribunal in other heads is also very low and hence seeks for enhancement.

6. Per contra, the learned counsel for the 2nd Respondent submitted that the Madurai Bench of this Court in the case of ***United India Insurance Co. Ltd., Vs.Manikanda Prabu*** reported in ***2023 (1) TN MAC 334*** has fixed a sum of Rs.6,000/- per percentage of disability while assessing the compensation towards disability, however in the present case, a sum of Rs.6,000 may be fixed as notional monthly income of the Claimant. He further submitted that the Tribunal, on considering both oral and documentary evidence, has rightly awarded compensation under various heads and therefore, the same does not warrant interference.

7. Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the 2nd respondent-Insurance company and



perused the entire materials on record.

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8. This Court, taking note of the nature of injuries sustained by the Claimant, period of treatment, year of accident and well as the submissions made by the learned counsel appearing on either side is of the view that the amount fixed by the Tribunal for per percentage of disability is very low and therefore, a sum of Rs.7,000/- per percentage is fixed and taking a sum of Rs.7,000/- per percentage, the compensation towards Disability comes to Rs.91,000/- (13x7000) and accordingly the compensation awarded under the head '**Disability**' is enhanced from Rs.52,000/- to **Rs.91,000/-**.

9. The case of the Appellant is that he was a driver at the time of accident and was earning a sum of Rs.15,000/- per month. The accident took place in the year 2018. The cost of living has been increased enormously and salary of even unskilled workers being increased substantially. Hence, a sum of Rs.15,000/- per month is fixed as notional income of the Claimant and by taking the said amount the compensation towards Loss of Income comes to Rs.45,000/- (15000x3). Hence, the compensation towards 'Loss of Income' is enhanced from Rs.30,000/- to **Rs.45,000/-**. The compensation awarded towards Attendant Charges is very low and therefore the same is enhanced



from **Rs.10,000/-** to **Rs.15,000/-**

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10. The amounts awarded by the Tribunal under other heads are just and reasonable and, in fact, though the claimant contends that the compensation awarded under other heads are meagre, however, a perusal of the compensation awarded reveals that the Tribunal has rightly awarded the compensation under the other heads and, accordingly, same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Medical Expenses	35,000/-	35,000/-	Confirmed
2.	Transportation	10,000/-	10,000/-	Confirmed
3.	Extra Nourishment	8,000/-	8,000/-	Confirmed
4.	Attendant Charges	10,000/-	15,000/-	Enhanced
5.	Disability	52,000/-	91,000/-	Enhanced
6.	Loss of Income (for 3 months)	30,000/-	45,000/-	Enhanced
7.	Pain and Suffering	15,000/-	15,000/-	Confirmed
	Total (Rounded off)	Rs.1,60,000/-	Rs.2,19,000/-	Enhanced by Rs.59,000/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and



the compensation awarded by the Tribunal at **Rs.1,60,000/-** is hereby enhanced to **Rs.2,19,000/-** together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The 2nd Respondent-Insurance Company is directed to deposit the award amount now determined by this Court, along with interest and costs, 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.6285 of 2018 on the file of the Motor Accidents Claims Tribunal, VI Small Causes Court, Chennai. On such deposit being made, the Tribunal is directed to transfer the Award amount directly to the Bank account of the Appellant/Claimant through RTGS, within a period of **three weeks**. The claimant is directed to pay necessary Court fee, if any on the enhanced compensation. However, it is made clear that if there is any delay in filing the C.M.A. and in case of any earlier order by this Court, depriving interest for the period of delay in question, the interest portion for that period should be excluded for the purpose of granting interest. No costs.

19.03.2024

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Index : Yes / No

Internet : Yes / No



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To

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1. The Manager,
HDFC ERGO General Insurance Company Limited,
New No.528, Old No.559, 2nd Floor,
Anna Salai, Teynampet,
Guindy Industrial Estate,
Guindy, Chennai- 600 018.

2. The Motor Accidents Claims Tribunal,
VI Small Causes Court, Chennai.

3. The Section Officer,
VR Section,
High Court,
Madras.

KRISHNAN RAMASAMY, J.

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