



C.M.A.No.3278 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3278 of 2024

Suresh

... Appellant

Vs.

1.Yuvaraj

2.Reliance General Insurance Company Limited,
Sree Lakshmi Complex, 1st Floor,
Omalar Main Road, Bharathi Street,
Swaranapuri, Salem-636 004.

3.Reliance General Insurance Company Limited,
No.178, 10th East Cross Street, Thillainagar,
Trichy-620 018.

4.Kumaran

... Respondents / Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 16.12.2022 made in M.C.O.P.No.17 of 2020 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Paramathy.



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For Appellant : Mr.T.S.Arthanareeswaran
For Respondents : Mr.P.Suresh Srinivasan
for R2 and R3

J U D G M E N T

The appellant / claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, Subordinate Court, Paramathy, in M.C.O.P.No.17 of 2020, dated 16.12.2022, has filed this appeal.

2. On 08.06.2019, at about 10.45 a.m., the claimant was traveling as pillion rider in the motorcycle bearing Registration No.TN 88 W 6114 belonging to the first respondent on Karur – Namakkal National Highways. The first respondent has driven the vehicle in a rash and negligent manner and dashed against the fourth respondent's car, due to which, the claimant sustained grievous injuries. Under these circumstances, the claim petition came to be filed by the appellant before the Tribunal seeking for compensation against the respondents. The first respondent is the owner of the motorcycle bearing Registration No.TN 88 W 6114 which was insured



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with second and third respondents and the fourth respondent is the owner of the car.

3. Before the Tribunal, on the side of the claimant, P.W.1 and P.W.2 were examined and Exs.P1 to P13 were marked. On the side of the third respondent, R.W.1 was examined and Ex.R1 and Ex.R2 were marked. The Disability Certificate issued by the Medical Board was marked as Ex.C1. 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 first respondent. Having reached such a finding, the Tribunal proceeded to fix the total compensation at Rs.3,51,334/- under various heads. The above compensation was directed to be paid by the third respondent along with interest at 7.5% p.a.

4. The claimant, not being satisfied with the quantum of compensation awarded by the Tribunal, has filed this appeal seeking compensation.



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5. The learned counsel appearing for the appellant submitted that at the time of accident, the appellant was aged about 34 years and was working as Contract Security Man and earning Rs.13,000/- per month. The appellant has taken treatment as in-patient from 08.06.2019 to 24.06.2019, however, the Tribunal has awarded a meagre sum of Rs.10,000/- under the head 'loss of income for a period of one month' and the appellant sustained grievous injuries and multiple fractures and the amount of Rs.5,000/- per percentage of disability fixed by the Tribunal is wholly inadequate. He further submit that the other heads awarded by the Tribunal are also on the lower side. Hence, the learned counsel for the appellant prays for enhancement of compensation.

6. The first and fourth respondents remained *ex-parte* before the Tribunal.

7. Per contra, learned counsel appearing for the second and third respondents / Insurance company submitted that the Tribunal, taking into



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consideration all the relevant documents, has rightly fixed the compensation, which does not require any interference. Hence, he prays for dismissal of this appeal.

8. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

9. In the instant case, as per Ex.C1, the appellant has sustained 10% disability. The Tribunal has chosen to adopt the percentage method and calculated per percentage of disability at the rate of Rs.5,000/-. The accident had taken place in the year 2019. Hence, considering the increase in the cost of living, this Court is inclined to enhance the per percentage of disability at the rate of Rs.7,000/-. Accordingly, the compensation awarded under the head 'disability' is enhanced to Rs.70,000/- $[7000 * 10]$. Insofar as compensation awarded under the heads 'pain and sufferings', 'extra nourishment', and 'attender charges' are concerned, the same is on the lower



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side and is enhanced to Rs.50,000/-, Rs.20,000/- and Rs.10,000/- respectively. The compensation awarded under the head 'damages to clothes' is hereby reduced from Rs.3,000/- to Rs.1,000/-. The appellant has taken treatment as in-patient from 08.06.2019 to 24.06.2019, however, the Tribunal has awarded a meagre sum of Rs.10,000/- under the head 'loss of income for a period of one month' and it is enhanced to Rs.15,000/-. This Court finds that there is no ground to award a sum of Rs.10,000/- towards loss of amenities and therefore, the same is hereby set aside. The amount awarded under the heads 'medical expenses', 'future medical expenses' and 'transportation charges' by the Tribunal is hereby confirmed.

10. In the above circumstances, the compensation awarded by the Tribunal under the below mentioned heads is modified as under:

<i>S.No</i>	<i>Head of Compensation</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
1	Disability	50,000/-	70,000/-
2	Pain and Suffering	15,000/-	50,000/-



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<i>S.No</i>	<i>Head of Compensation</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
3	Extra Nourishment	10,000/-	20,000/-
4	Loss of income during the treatment period	10,000/-	15,000/-
5	Loss of amenities	10,000/-	-
6.	Attender Charges	5,000/-	10,000/-
7.	Damages to clothes	3,000/-	1,000/-
8.	Medical Expenses	1,68,334/-	1,68,334/-
9.	Future Medical Expenses	70,000/-	70,000/-
10.	Transportation Expenses	10,000/-	10,000/-
	Total	Rs.3,51,334/-	Rs.4,14,334/-

11. In the result, this Civil Miscellaneous Appeal is allowed in part and the compensation awarded by the Tribunal at Rs.3,51,334/- is hereby enhanced to Rs.4,14,334/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. The third respondent is directed to deposit the entire award amount now determined



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by this Court along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.17 of 2020 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Paramathy. On such deposit, the appellant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn, by making proper application before the Tribunal. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. No costs.

16.12.2024

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



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To

- 1.The Motor Accidents Claims Tribunal, Subordinate Court, Paramathy.
2. The Section Officer,
V.R. Section,
High Court, Chennai.



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M.DHANDAPANI, J.

ssb

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