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C.M.A.No.3365 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.3365 of 2024

D.Manokaran

... Appellant

Vs.

1.K.Shagulhameed

2.The Manager,

Reliance General Insurance Company Limited,
Rai's Tower, Plot No.2054, II Avenue,
Anna Nagar, Chennai.

Now present address

Reliance General Insurance Company Limited,
Building No.10 & 11, Chennai City Centre,
No.13, 5th Floor, Dr.Radhakrishnan Salai,
Mylapore,
Chennai – 600 004.

... Respondents

(No relief sought against the 1st respondent
hence notice may be dispensed with)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 02.02.2024 made in M.C.O.P.No.530 of 2016 on the file of the Motor Accident Claims Tribunal, Additional Subordinate Judge, Kancheepuram.



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For Appellant : Mr.M.Sivakumar

For Respondents : Notice dispensed with [R1]
Mrs.R.Sreevidhya [R2]

JUDGMENT

The above appeal is filed by the appellant/claimant seeking an enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Additional Subordinate Judge, Kanchipuram in M.C.O.P.No.530 of 2016, dated 02.02.2024.

2. In view of the judgment, which is going to be passed in this appeal, notice to the 1st respondent is dispensed with.

3. The case of the appellant/claimant is that, on 10.04.2016 at about 8.30 p.m., the claimant was riding his motorcycle bearing Regn.No.TN-21-AM-7114 according to follow traffic rules and regulations on the extreme left with normal speed from Iyyampettai towards Kanchipuram town for filling up petrol and also purchase of some article in Kancheepuram market and on the Chengalpet to Kanchipuram highways road. At that time, near Nasarathpettai



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Pachaiyappa's Men's College, the 1st respondent Eicher lorry bearing Regn.No.TN-11-M-9912, insured with the 2nd respondent, driven by its driver, in a very rash and negligent manner without following traffic rules and regulation and also with heavy speed came from opposite direction and when the lorry driver over take another vehicle, hit against the motorcycle of the claimant, thereby, he was thrown away from the motorcycle and sustained multiple grievous fracture all over his body. Immediately, he was admitted in the Government Head Quarters Hospital at Kanchipuram and then he was referred Chennai Government hospital and taken higher treatment. Therefore, the appellant/claimant had filed a claim petition claiming a sum of Rs.10,00,000/- for the injuries sustained by him in the said road accident.

4. Before the Tribunal, the appellant/claimant had examined himself as P.W.1 and Dr.Kennath Reddy and Dr.Anandhalakshmi are examined as P.W.2 and P.W.3 and Ex.P.1 to Ex.P.9 and Ex.C.1 and Ex.C.2 were marked. No witnesses were examined nor any documents were marked on the side of the respondents. After adjudication, the Tribunal had allowed the petition and awarded a sum of Rs.5,01,080/- as



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compensation to the appellants/claimants. Not satisfied with the same, the appellant has preferred the present appeal seeking enhancement.

5. Learned counsel appearing for the appellant submitted that, though the Government Medical Board, Kancheepuram had assessed the disability of the appellant at 47% and the appellant sustained injuries of “loss of eye sighter and paralysis – post trauma sequence right leg, knee stiffness and due to which, the appellant have lost entire life and the appellant is unable to walk, seen and sit, thereby, the Tribunal ought to have been granted taking disability at 100%, however, the Tribunal had awarded a sum of Rs.4,06,080/- towards permanent disablement, which is wholly unsustainable, which requires to be re-considered by this court. Further, he submitted that the compensation awarded by the Tribunal under the other heads is meagre, which also requires to be enhanced. Accordingly, he prays for appropriate enhancement in favour of the appellant.

6. Learned counsel appearing for the second respondent/Insurance Company submitted that, the amount of compensation awarded by the Tribunal towards permanent disablement is just and reasonable and so also the compensation awarded under the



other heads, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.

7. Heard the learned counsel appearing for the appellant and the learned counsel appearing on behalf of the second respondent and perused the materials available on record.

8. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The only grievance of the appellant/claimant is with regard to the quantum of compensation awarded. In this regard, this Court perused Ex.C.1 and Ex.C.2, which are the disability certificates issued by the District Medical Board, Kanchipuram and the same reveals that the appellant had suffered visual handicapped 30% and Limb paralysis – post trauma sequence right leg, knee stiffness and 25% disability. As per the evidence of doctors viz., P.W.2 and P.W.3, the total disability percentage of the appellant was 47%. Considering the same, the Tribunal, had awarded a sum of Rs.4,06,080/- towards permanent disablement by fixing a sum of Rs.4,000/- as notional income by adopting multiplier method considering the age of the appellant/claimant, which cannot be erroneous. Therefore,



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the compensation awarded by the Tribunal towards permanent disablement is confirmed.

9. Further, the Tribunal had awarded a sum of Rs.6,000/- towards attendant charges; Rs.12,000/- towards loss of income; Rs.20,000/- towards pain and sufferings; Rs.50,000/- towards loss of future expectations; Rs.5,000/- towards transportation and Rs.2,000/- towards extra nourishment. This Court finds that the compensation awarded under the head loss of future expectations is just and reasonable and the same is confirmed. However, insofar as the compensation awarded towards attendant charges, loss of income, pain and sufferings, loss of future expectations, transportation and extra nourishment is on the lower side and accordingly, the compensation awarded under the said heads are enhanced to a sum of Rs.30,000/-, Rs.30,000/-, Rs.60,000/-, Rs.20,000/- and Rs.25,000/- respectively.

10. In view of the above, the compensation awarded by the Tribunal is modified as under :-



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<i>S. No.</i>	<i>Description</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
1	Medical expenses	-	-
2	Permanent Disablement	4,06,080/-	4,06,080/-
3	Attendant charges	6,000/-	30,000/- (enhanced)
4	Loss of income	12,000/-	30,000/- (enhanced)
5	Pain & Sufferings	20,000/-	60,000/- (enhanced)
6	Loss of future expectations	50,000/-	50,000/-
7	Transportation	5,000/-	20,000/- (enhanced)
8.	Extra nourishment	2,000/-	25,000/- (enhanced)
	Total	5,01,080/-	6,21,080/-

11. Accordingly, this Civil Miscellaneous Appeal is partly allowed and the impugned award is modified, enhancing the compensation amount from **Rs.5,01,080/-** to **Rs.6,21,080/-**. The second respondent/Insurance Company is directed to deposit the compensation amount, awarded by this Court, to the credit of M.C.O.P.No.530 of 2016 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six weeks (6) from the date of receipt of a copy of this judgment. On such deposit



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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 two (2) weeks thereafter upon production of proof with regard to payment of Court fee on the enhanced compensation. The appellant/claimant is directed to pay necessary additional Court fee on the enhanced compensation amount. It is made clear that the appellant will not entitled to any interest for the delay period. There shall be no order as to costs in the present appeal.

20.12.2024

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To
The Motor Accident Claims Tribunal, Additional Subordinate Judge,
Kanchipuram.



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M.DHANDAPANI, J.

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