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Civil Miscellaneous Appeal No.1566 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 09.07.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

**Civil Miscellaneous Appeal No.1566 of 2024**

Balaji Singh  
S/o.Kisan Singh

... Appellant

Vs.

1.V.Krishnakumar  
S/o.V.Velusamy

2.United India Insurance Company Limited,  
Branch Office, M.P.S.Complex,  
II Floor, Palani - 624 601.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 19.02.2013 made in M.C.O.P.No.873 of 2010 on the file of Motor Accident Claims Tribunal cum Additional District Judge, Dharmapuri.

For Appellant : Mr.P.Thirumalaivasan

For Respondents : Mr.J.Chandran [R2]

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**JUDGMENT**

The appellant/claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal cum Additional District Judge, Dharmapuri, in M.C.O.P.No.873 of 2010, dated



19.02.2013, has filed this appeal.

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2. The case of the claimant is that on 10.04.2006, he was proceeding in his two wheeler at Pollachi to Kovai road and at about 09.30 a.m., when the vehicle came near the place of occurrence, the offending vehicle, a Car, was driven in a rash and negligent manner and it came from the opposite side and hit the two wheeler, as a result of which the claimant was thrown out of the vehicle and he sustained fracture of shaft femur, shaft of tibia, right ulna styloid process and right fuferior pole of patella. The claimant underwent treatment as an inpatient for nearly 40 days. The disability suffered by the claimant was assessed by the Medical Board at 65%. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking compensation.

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 offending vehicle. Having reached such a finding, the Tribunal proceeded to fix the total compensation at Rs.18,62,275/- under various heads as follows:



| <i><b>Sl. No.</b></i> | <i><b>Compensation awarded under the head</b></i> | <i><b>Amount (in Rs.)</b></i> |
|-----------------------|---------------------------------------------------|-------------------------------|
| 1.                    | Loss of income                                    | 15,91,200/-                   |
| 2.                    | Medical expenses                                  | 2,36,075/-                    |
| 3.                    | Pain and suffering                                | 25,000/-                      |
| 4.                    | Travelling allowance                              | 5,000/-                       |
| 5.                    | Nutrition                                         | 5,000/-                       |
|                       | <b>Total</b>                                      | <b>18,62,275/-</b>            |

The above compensation was directed to be paid 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.

5. Heard Mr.P.Thirumalaivasan, learned counsel for appellant/claimant and Mr.J.Chandran, learned counsel for second respondent insurance company.

6. This Court carefully considered the submissions made on either side and the materials available on record.

7. This Court also carefully went through the award passed by the



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8. Learned counsel for appellant submitted that the Medical Board had assessed the disability suffered by the claimant at 65% whereas the Tribunal took only 40% while deciding the compensation under the head 'disability'. In the instant case, the claimant was aged about 30 years and the Tribunal had taken into consideration the nature of injuries sustained by the claimant and the percentage of disability assessed by the Medical Board. The Tribunal also took into consideration the fact that the claimant was working as a Marketing Manager in a private concern. Considering the nature of avocation and the nature of injuries, the Tribunal assessed the whole body disability at 40%. Such finding rendered by the Tribunal does not suffer from any illegality. Therefore, the compensation awarded by the Tribunal by adopting multiplier method under the head 'disability'/'loss of income' is perfectly in order.

9. The claimant had undergone treatment as an inpatient for nearly 40 days and he also underwent one operation. In view of the same, this Court is inclined to increase the compensation under the heads 'transportation', 'pain and suffering' and 'nutrition' to Rs.15,000/-, Rs.50,000/- and Rs.25,000/- respectively. The Tribunal has not granted any compensation under the head 'attender charges' and hence, a sum of



Rs.15,000/- is awarded under this head.

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10. The compensation granted under the other heads does not require the interference of this Court.

11. For the foregoing reasons, the compensation awarded by the Tribunal is modified as follows:

| <i>Sl. No.</i> | <i>Compensation awarded under the head</i> | <i>Amount awarded by the Tribunal (in Rs.)</i> | <i>Amount awarded by this Court (in Rs.)</i> |
|----------------|--------------------------------------------|------------------------------------------------|----------------------------------------------|
| 1.             | Loss of income                             | 15,91,200/-                                    | 15,91,200/-                                  |
| 2.             | Medical expenses                           | 2,36,075/-                                     | 2,36,075/-                                   |
| 3.             | Pain and suffering                         | 25,000/-                                       | 50,000/-                                     |
| 4.             | Travelling allowance                       | 5,000/-                                        | 15,000/-                                     |
| 5.             | Nutrition                                  | 5,000/-                                        | 25,000/-                                     |
| 6.             | Attender charges                           | -                                              | 15,000/-                                     |
|                | <b>Total</b>                               | <b>18,62,275/-</b>                             | <b>19,32,275/-</b>                           |

12. The compensation awarded by the Tribunal at Rs.18,62,275/- is enhanced to Rs.19,32,275/-. The second respondent insurance company

**N.ANAND VENKATESH, J.**

is directed to deposit the compensation awarded by this Court, less the amount already deposited, together with interest at 7.5% p.a. from the



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date of claim petition till the date of deposit within a period of six (6) weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.70,000/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay of 149 days as was ordered by this Court in C.M.P.No.29272 of 2023 in CMA Sr.No.143846 of 2023, dated 11.06.2024. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

**09.07.2024**

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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To

The Motor Accident Claims Tribunal

cum Additional District Judge,

Dharmapuri.

**Civil Miscellaneous Appeal No.1566 of 2024**