



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.2841 of 2022

Prakash

.. Appellant

.Vs.

1.Dhanasekaran

2.National Insurance Co., Ltd.,
2nd Floor, 81-D, Chetty Street
Opp: Bus Stand
Thiruchengode Taluk
Namakkal District.

.. Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment in MCOP No.986 of 2016 dated 22.7.2022, on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate Court, Namakkal.

For Appellant : Mr.C.Paraneedharan

For Respondents : Mr.S.Arunkumar [R2]

No appearance [R1]



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JUDGMENT

The claimant, who is the injured in this case, not being satisfied with the quantum of compensation awarded by the Tribunal has filed this appeal challenging the award passed by the Motor Accident Claims Tribunal/Chief Judicial Magistrate Court, Namakkal, in MCOP No.986 of 2016 dated 22.7.2022.

2.The case of the appellant is that he was travelling as a pillion rider in a two wheeler that was driven by one Yuvaraj on 25.7.2014 and at about 6.30 pm., when the vehicle was crossing Kendriya Vidhyalaya Cross, the rider of the vehicle had driven the vehicle in a rash and negligent manner and as a result, he lost control of the vehicle and the vehicle skidded and the claimant fell down and sustained the following injuries:

1. Communitied Fracture in Base 5th Metacarpal bone.
- 2.Open Fracture Grade IIIB Compound Comminuted Fracture in Head of Shaft 3rd Metacarpal bone.
- 3.Fracture of Shaft 4th Metacarpal Right Heel and Fracture Hand/Neck Hand/Neck of 2,3,4,5th Metatarsal Right Foot.

3.The Medical Board assessed the disability suffered by the claimant and issued a disability certificate marked as Ex.X-1 by assessing permanent disability



of 20%. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

4.The Tribunal on considering the facts and circumstances of the case and on appreciation of the oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving of the two wheeler by the 1st respondent. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.2,09,800/- in the following manner:

Sl. No	Compensation awarded under the head	Amount in Rs.
1.	20% Permanent Disability (20 X 5000)	1,00,000/-
2.	Medical Expenses	63,800/-
3.	Pain and suffering	25,000/-
4.	Transportation charges	1,500/-
5.	Loss of Income	7,500/-
6.	Attender charges	5,000/-
7.	Nourishment charges	5,000/-
8.	Damage to cloths	2,000/-
	Total	2,09,800/-

5.The above compensation was directed to be paid by the Insurance Company with interest @ 7.5% p.a.



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6.The claimant, not being satisfied with the quantum of compensation fixed by the Tribunal, has filed this appeal before this Court seeking for enhancement of compensation.

7.Heard Mr.C.Paraneedharan, learned counsel for the appellant and Mr.S.Arun Kumar, learned counsel for 2nd respondent Insurance Company. The name of the 1st respondent has been printed in the cause list. There is no appearance either in person or through counsel on behalf of the 1st respondent.

8.This Court has carefully considered the submissions made on either side and perused the materials available on record. This Court has also carefully gone through the award passed by the Tribunal.

9.The learned counsel for the appellant submitted that the compensation that has been fixed by the Tribunal under various heads is on the lower side and it requires enhancement. Per contra, the learned counsel for the 2nd respondent Insurance Company submitted that the Tribunal has fixed a reasonable compensation in this case and the same does not require the interference of this Court.



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10. The nature of injuries that were sustained by the claimant has already been referred supra. The claimant in this case was a lorry cleaner. He had undergone treatment as an inpatient on two occasions. The first occasion was from 26.7.2014 to 1.8.2014 for 7 days. During this time, he underwent a surgery. Thereafter, he was once again admitted and treated as an inpatient from 8.12.2014 to 11.12.2014 for 4 days. During this time, he once again underwent a surgery. Thus, the claimant was an inpatient for totally 11 days and had undergone surgery twice. In view of the same, the compensation that has been fixed under certain heads requires enhancement. That apart, some compensation must also be given for future medical expenses.

11. In view of the above, the compensation under the head of 'loss of earnings' can be fixed at Rs.36,000/- [Rs.9000 x 4 months] since the claimant was immobilized for at least 45 days and he would have been out of action for at least 4 months.

12. The compensation that has been given under the head of 'transport charges' can be enhanced to Rs.5,000/-. The compensation that has been given under the head 'attender charges' can be enhanced to Rs.15,000/- and similarly 'nourishment charges' also can be enhanced to Rs.15,000/-. Considering the



nature of injuries sustained by the claimant and the treatment that was undergone, some continues treatment may be required in this case and therefore, 'future medical expenses' can be fixed at Rs.18,000/-.

13. In the light of the above discussion, the compensation fixed by the Tribunal is modified as follows:

Sl. No	Compensation awarded under the head	Amount in Rs.	Amount in Rs.
1.	20% Permanent Disability (20 X 5000)	1,00,000/-	1,00,000/-
2.	Medical Expenses	63,800/-	63,800/-
3.	Pain and suffering	25,000/-	25,000/-
4.	Transportation charges	1,500/-	5,000/-
5.	Loss of Income [9000 x 4]	7,500/-	36,000/-
6.	Attendant charges	5,000/-	15,000/-
7.	Nourishment charges	5,000/-	15,000/-
8.	Damage to cloths	2,000/-	2,000/-
9.	Future Medical Expenses	--	18,000/-
	Total	2,09,800/-	2,79,800/-

The above compensation is rounded up to Rs.2,80,000/-

14. The compensation awarded by the Tribunal at Rs.2,09,800/- is enhanced to Rs.2,80,000/-. The 2nd respondent Insurance Company is directed to



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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.

15. In the result, the Civil Miscellaneous Appeal is allowed in the above terms. No costs.

23.04.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
KP

To

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N. ANAND VENKATESH., J
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