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C.M.A.No.3000 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3000 of 2024

V.Natarajan

... Appellant

Vs.

1.M.Kavitha

2.M/s.National Insurance Company Limited,
No.1, Marumalarchi Shoping Complex,
R.Pudupatti,
Business Doing at No.74a,
Paramathy Road,
Namakkal Taluk.

{The 1st respondent remained ex-parte
before the tribunal; hence notice
may be dispensed with for the
1st respondent in this appeal}

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, for enhancement of compensation in the judgment and decree dated 10.08.2019 made in M.C.O.P.No.396 of 2016 on the file of MACT/ Chief Judicial Magistrate Court, Namakkal.

For Appellant : Mr.Ma.P.Thangavel

For Respondents : R1 – Exparte vide in E.B.
Mrs.N.B.Surekha for R2



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J U D G M E N T

This appeal has been filed against the judgment and decree dated 10.08.2019 passed by the Motor Accidents Claims Tribunal/ Chief Judicial Magistrate Court, Namakkal, in M.C.O.P.No.396 of 2016.

2.The learned counsel appearing for the appellant submitted that on 14.06.2016, at about 07.00 p.m., the appellant was riding his bicycle on Namakkal to Tiruchengode Main Road. At that time, a Santro Car bearing Registration No.TN 01 AK 3355 belonging to the first respondent and insured with the second respondent came in a rash and negligent manner and dashed against the appellant's bicycle, due to which, the appellant sustained injuries.

3.The learned counsel appearing for the appellant further submitted that thereafter, the injured claimant/ appellant filed claim petition before the Tribunal, claiming compensation of Rs.10 Lakhs. After adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.1,83,600/- with interest at the rate of 7.5% p.a. from the date of petition i.e., 02.09.2016 till payment and proportionate costs and directed the second respondent to deposit the compensation.



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Aggrieved by the same, the appellant claimant has filed this appeal for enhancement in compensation.

4.The learned counsel appearing for the appellant further submitted that the appellant has filed this appeal questioning the quantum of compensation awarded by the Tribunal. The learned counsel further submitted that though the Doctor assessed the disability of the appellant as 30%, the Tribunal fixed the disability as 15% and further submitted that at the relevant point of time Rs.5,000/- per percentage of disability was awarded, however, the Tribunal awarded only a sum of Rs.3,000/- per percentage of disability and awarded meagre compensation for disability which is not sustainable one and further submitted that the compensation awarded under the other heads also are meagre.

5.The learned counsel appearing for the second respondent Insurance Company submitted that the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference.



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6. Heard the learned counsel appearing for the appellant claimant as well as the learned counsel appearing for the second respondent Insurance Company and perused the materials available on record.

7. This appeal has been filed only questioning the quantum of compensation awarded by the Tribunal. Hence, there is no need for any discussion with regard to negligence aspect.

8. The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.40,000/- for pain and sufferings, Rs.45,000/- for disability, Rs.63,600/- for medical expenses, Rs.27,000/- for partial loss of earning, Rs.4,000/- for extra nourishment, Rs.4,000/- for transport expenses and arrived at a total compensation of Rs.1,83,600/- with interest at the rate of 7.5% p.a. from the date of petition i.e., 02.09.2016 till payment.

9. The Medical Board has not assessed the disability of the injured claimant and the Doctor has assessed the disability of the injured claimant as 30% disability. Hence, this Court fix the disability as 20%. At the relevant point of time Rs.5,000/- per percentage of



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disability was awarded. Hence, the amount awarded for disability works out to Rs.1,00,000/- [20% X Rs.5,000/- = Rs.1,00,000/-].

10.The amount awarded under the heads transport expenses and extra nourishment, in the opinion of this Court are low and this Court is inclined to enhance the amount awarded under the said heads. Accordingly, the amount awarded for transport expenses is enhanced to Rs.5,000/- from Rs.4,000/-, the amount awarded for extra nourishment is enhanced to Rs.10,000/- from Rs.4,000/-. The amount awarded under the other heads, in the opinion of this Court are just and reasonable and the same are confirmed.

11.Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Disability	Rs. 45,000/-	Rs.1,00,000/-
2.	Pain and sufferings	Rs. 40,000/-	Rs. 40,000/-
3.	Extra nourishment	Rs. 4,000/-	Rs. 10,000/-
4.	Transport expenses	Rs. 4,000/-	Rs. 5,000/-
5.	Partial loss of earning	Rs. 27,000/-	Rs. 27,000/-
6.	Medical expenses	Rs. 63,600/-	Rs. 63,600/-
	Total	Rs.1,83,600/-	Rs.2,45,600/-



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12.The appellant claimant is entitled to total compensation of Rs.2,45,600/- along with interest at the rate of 7.5% p.a. from the date of petition i.e., 02.09.2016 till payment.

13.The civil miscellaneous appeal is partly allowed. The judgment and decree dated 10.08.2019 passed by the Motor Accidents Claims Tribunal/ Chief Judicial Magistrate Court, Namakkal, in M.C.O.P.No.396 of 2016, is modified to the above extent.

14.The second respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such deposit being made, the appellant/ claimant is permitted to withdraw the modified/ enhanced award amount, along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal.

15.The appellant/ claimant shall not be entitled to any interest



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for the period of delay, if any, in filing/ representing the appeal. The appellant/ claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accidents Claims Tribunal/ Chief Judicial Magistrate Court, Namakkal, shall disburse the compensation amount upon production of certified copy showing proof of payment of Court fee by the appellant/ claimant.

16.The civil miscellaneous appeal is partly allowed. No costs.

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal/
Chief Judicial Magistrate Court,
Namakkal.



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M.DHANDAPANI,J.
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