



C.M.A.No.3351 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.3351 of 2024

Kannan

...Appellant

Vs.

1. Ragavendra
2. The New India Assurance Company Ltd.,
Motor Third Party Claims Office,
No.45, 5th Floor, Moore Street,
Chennai – 1.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, seeking to allow this appeal by enhancing the amount awarded in MCOP.No.2113 of 2014 dated 24.04.2023 on the file of the Motor Accident Claims Tribunal, (Special Sub Court No.1, Small Causes Court), Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For Respondents : Mr.T.Jayaraman, for R2
: Notice Dispensed with, for R1



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JUDGEMENT

Challenging the judgment and decree dated 24.04.2023 made in MCOP.No.2113 of 2014 on the file of the Motor Accident Claims Tribunal, (Special Sub Court No.1, Small Causes Court), Chennai, the claimant is before this Court.

2. Mr.T.Jayaraman, learned counsel takes notice on behalf of the 2nd respondent. In view of the consent expressed by the learned counsel on either side, this appeal is taken up for final disposal at the admission stage itself.

3. Since the 1st remained exparte before the tribunal, notice to the 1st respondent is dispensed with.

4. It is the case of the appellant/claimant that, on 22.02.2014 at about 07.00 hrs, when the petitioner was walking at R.K.Salai, Music Academy over bridge, at that time, a car bearing Regn.No.TN-05-AF-8506 owned by the 1st



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respondent insured with the 2nd respondent driven by its driver came in a rash and negligent manner and dashed against the appellant, due to which he sustained multiple grievous injuries and got admitted in the hospital. Thereby, the appellant filed a claim petition seeking compensation of Rs.18,00,000/-. Before the tribunal, the claimant examined two witnesses viz P.W.1 and P.W.2 and marked exhibits P.1 to P.18 and on the side of respondents no documents were marked and no witness was examined and the Disability certificate was marked as court document Ex.C.1. After trial, the Tribunal, on appreciation of oral and documentary evidence though came to a conclusion that the accident had taken place solely due to the rash and negligent driving on the part of the driver of the 1st respondent, however, awarded a meagre compensation of Rs.1,10,000/-. Being not satisfied with the quantum of compensation awarded by the Tribunal, the appellant/claimant has come up with this appeal seeking enhancement of compensation.

5. Learned counsel appearing for the appellant submitted that admittedly, the above said accident occurred solely due to the rash and



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negligent driving of the driver of the 1st respondent vehicle, due to which, the appellant sustained grievous Brain injury and soft tissue injuries, however, the medical board had assessed Nil disability and failed to assess the brain injury sustained by the appellant and to substantiate the injuries sustained by him, though the appellant has marked the Discharge summary and the treatment records, however, the same was not properly appreciated by the tribunal and the tribunal had refused to award compensation under the head Disability, which is wholly unsustainable. Further, the quantum of compensation awarded by the tribunal under various heads are also on the lower side and the same has to necessarily be enhanced. Accordingly, he prayed for appropriate orders.

6. Per contra, the learned counsel appearing for the 2nd respondent/ Insurance Company submitted that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prayed for dismissal of the appeal.

7. Heard the learned counsel on either side and perused the materials available on record.



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8. The factum and manner of the accident is not disputed by the parties.

Therefore, this Court is not entering into the said aspect.

9. Though it is the stand of the claimant that the assessment of disability as 'Nil' by the Medical Board is erroneous, as the medical board did not consist of any expert concerning head injuries, however, it is to be pointed out that the Medical board has experts, who have assessed the medical complications of the claimant and merely because there is no expert concerning head does not mean that the experts forming the Medical Board are novice men, who are not clear about the injuries suffered on the head and resultantly cannot rightly assess the disability. The Medical board had assessed the injuries suffered by the claimant and had held the disability pursuant to the accident to be Nil and the tribunal has also rightly appreciated the injuries and accepted the same, with which this Court does not find any error and therefore, no interference is called for with the same.



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10. Insofar as the compensation awarded under other heads are concerned, the tribunal awarded a compensation of Rs.35,000/-, Rs.4,000/-, Rs.10,000/- and Rs.4,800/- under the heads Pain and suffering, Transportation expenses, Extra Nourishment and Attender charges respectively, which are on the lower side and thereby, this Court is inclined to enhance the same to Rs.40,000/-, Rs.10,000/-, Rs.30,000/- and Rs.10,000/- respectively. Further, a sum of Rs.20,000/- has been awarded under the head Loss of amenities which is not sustainable and the same is rejected.

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

Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
Pain and sufferings	35,000/-	40,000/-
Transportation	4,000/-	10,000/-
Medical Expenses	36,002/-	36,002/-
Extra Nourishment	10,000/-	30,000/-



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Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
Loss of amenities	20,000/-	-
Attender charges	4,800/-	10,000/-
Total	1,09,802/- Rounded off to 1,10,000/-	1,26,002/-

12. Accordingly, the appeal is partly allowed and the impugned award of the Tribunal is modified enhancing the compensation amount from **Rs.1,10,000/-** to **Rs.1,26,002/-**. The 2nd respondent/Insurance Company is directed to deposit the said amount to the credit of MCOP.No.2113 of 2014 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 four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the said amount directly to the bank account of the Appellant through RTGS within a period of two (2) weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced



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compensation by the appellant. It is underscored that the appellant is not entitled to any interest for the default period, if any. There shall be no order as to costs in the present appeal.

20.12.2024

skt

Index : Yes / No
Speaking Order : Yes / No
Neutral Citation Case : Yes / No

To

1. The Motor Accident Claims Tribunal,
(Special Sub Court No.1, Small Causes Court), Chennai.
2. The Section Officer,
V.R. Section, High Court, Madras.



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M.DHANDAPANI, J.

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