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C.M.A.No.3336 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

C.M.A.No.3336 of 2024

M.Kanniyappan

...Appellant

Vs.

1. V.M.Muthukumar
2. The Manager,
United India Insurance Company Limited,
(Third Party Hub), Sillinghi Building,
No.134, Greams Road,
Chennai – 600 006

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 06.06.2023 made in M.C.O.P.No.4207 of 2019 on the file of the Motor Accidents Claims Tribunal, (In the VI Court of Small Causes, Chennai).

For Appellant : Mr.K.Balaji

For Respondents : Mr.Michael Visuvasam for R2

JUDGEMENT

Challenging the judgment and decree dated 06.06.2023 made in M.C.O.P.No.4207 of 2019 on the file of the Motor Accidents Claims Tribunal,



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(In the VI Court of Small Causes, Chennai), the claimant is before this Court.

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2. The case of the appellant is that, on 01.07.2019 at about 5.45 am, when the appellant was crossing the road from east to west direction at Tindivanam to Chennai Highways, at that time, a Travels Bus bearing Regn.No.PY-01-CQ-5799 driven by its driver belonging to the first respondent came in a rash and negligent manner and had hit the appellant, due to which, the appellant sustained grievous injuries all over his body. Thereby, the appellant filed a claim petition claiming a compensation of Rs.20,00,000/-. After contest, the tribunal, vide impugned judgment awarded a compensation of Rs.4,72,228/-. Aggrieved with the said order, the present appeal has been filed by the claimant seeking enhancement of the compensation fixed.

3. Learned counsel appearing for the appellant submitted that admittedly, the above said accident occurred solely due to the rash and negligent driving of the driver of the 1st respondent vehicle, due to which, the appellant sustained grievous injuries and the medical board assessed a



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disability of 83%, however, the tribunal had awarded only a sum of Rs.3,32,000/- towards Disability, which is very meagre and not in consonance with the decision of the Hon'ble Division bench of this Court in the case of **Chinnathambi Vs. Deepa** and the compensation awarded under other heads are also on the lower side and the same has to be necessarily enhanced. Accordingly, he prayed for appropriate orders.

4. 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 prays for dismissal of the appeal.

5. Heard the learned counsel for the appellant and the learned counsel appearing for the 2nd respondent and perused the materials available on record.

6. 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 is with regard to the quantum of compensation awarded by the



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tribunal. A perusal of Ex.C1, the Disability Certificate reveals that, the appellant sustained a disability of 83%. Though the accident is of the year 2019, the tribunal had only awarded a sum of Rs.3,32,000/- under the head “disability” without fixing amount per percentage of disability, which is contrary to the dictum laid down in a catena of decisions relating to fixation of amount towards per percentage. Therefore, taking a sum of Rs.8,000/- per percentage of disability and as the disability sustained by the appellant is 83%, the loss of earning due to disability is reassessed on percentage basis and accordingly, this Court awards a sum of Rs.6,64,000/- towards loss of earning capacity ($\text{Rs.8,000/-} \times 83\% = 6,64,000/-$). Further, the compensation awarded by the Tribunal under the heads Transportation, Extra nourishment, Attender charges and pain and sufferings are also on the lower side and thereby, the same is enhanced to Rs.25,000/-, Rs.30,000/-, Rs.25,000/- and 1,00,000/- respectively.

7. Insofar as the compensation awarded under the other heads are concerned, the said compensation awarded are just and reasonable and no



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interference is warranted with the award of compensation under the said heads.

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8. In the above circumstances, 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.)
Medical expenditure	25,228/-	25,228/-
Transportation	10,000/-	25,000/-
Extra nourishment	10,000/-	30,000/-
Attender charges	15,000/-	25,000/-
Disability	3,32,000/-	6,64,000/-
Loss of income during treatment period (6 x Rs.10,000/-)	60,000/-	60,000/-
Pain and sufferings	20,000/-	1,00,000/-
Total	Rs.4,72,228/-	Rs.9,29,228/-

9. The appeal is partly allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.4,72,228/-** to **Rs.9,29,228/-**. The 2nd respondent-Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.4207 of 2019 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



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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 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.

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

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1.Motor Accidents Claims Tribunal, (In the VI Court of Small Causes, Chennai).

2.The Section Officer,
V.R. Section,
High Court, Madras.



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M.DHANDAPANI, J.

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