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C.M.A.No.2935 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.2935 of 2023

Mrs.Avabhi

...Appellant

Vs

1.N.Chelladurai

2.The United India Insurance Company Limited,
Sillingi Building, 4th Floor,
No.134, Greams Road,
Chennai-600 006

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree made in MCOP.No.7952 of 2018 dated 27.06.2023 on the file of the Motor Accident Claims Tribunal(Special Sub Court no.1) Small Causes Court, Chennai.

For Appellant : Mr.K.Balaji

For Respondents : Mr.R.Sreevidhya for R2



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JUDGMENT

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This Civil Miscellaneous appeal has been filed by the appellant, seeking to set aside the award passed in MCOP.No.7952 of 2018 dated 27.06.2023 by the Motor Accident Claims Tribunal (Special Sub Court No.1), Chennai.

2. The brief facts of the case are that on 16.08.2018 at about 08.30 hours, while the claimant was crossing “pedestrian cross” at Thiruneermalai main Road, near Kalaimagal School, Kamarajapuram, Anakaputhur, Chennai, at that time, a motorcycle bearing Reg. No. TN-85-F-1380 riding its rider, in very rash and negligent manner and endangering the public safety and hit the claimant. Due to the accident, the claimant sustained grievous injuries. Hence, the claimant filed a petition before the Tribunal, seeking a sum of Rs.12,00,000/- towards compensation.

3. On consideration of both oral and documentary evidence, the learned Tribunal has awarded the compensation under the following heads, viz.,

<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
1	Disability	1,65,000
2	Medical Expenses	1750
3	Pain and Sufferings	30,000



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<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
4	Transport Expenses	4,000
5	Extra Nourishment	10000
6	Attendant charges	4500
8	Loss of amenities	20000
9	Loss of income	20000
	Total	2,55,250/-
	Rounded off to	2,55,300

4.The learned counsel for the appellant submits that the appellant sustained grievous and the Regional Medical Board issued Ex.C1 Disability Certificate, assessing 33% disability, however, the Tribunal applied per centage method and awarded a sum of Rs.1,65,000/- towards 'disability', which is very low and hence, he seeks for enhancement of the same by applying multiplier method. He further submitted as regards the compensation awarded under other heads also is very meagre, he seeks enhancement of the same.

5.The learned counsel for the respondent would submit that the Tribunal has rightly awarded compensation which is just and far and requires no interference. Hence, he requested this Court to confirm the same.



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6. Heard the learned counsel for the appellant and the learned counsel for the second respondent and also perused the materials available on record.

7. In the present case, there is no dispute with regard to the occurrence of the accident and also the fixation of negligence and fastening the liability. The issue is only with regard to the determination of the compensation awarded by the Tribunal since the appellant seeks enhancement of the same. The accident had occurred in the year 2018 and the appellant has sustained grievous injuries, viz., injuries, viz., right interior and superior public rami fracture, L1 stable wedge compression fracture and as could be seen from Ex.C1 Disability Certificate issued by the Regional Medical Board, the appellant sustained 33% disability. The Tribunal applied per centage method, i.e. Rs.5000/- for each per centage and awarded a sum of Rs. Rs.1,65,000/- towards disability. Considering the nature of the injuries, which are grievous in nature and the per centage of disability, i.e. 33%, this Court is of the view that it would be appropriate to fix Rs.6,000/- for each per centage instead of Rs.5000/- as fixed by the Tribunal. Hence, the compensation awarded towards disability is re-determined and enhanced to Rs.1,98,000/- from Rs.1,65,000/- awarded by the



Tribunal. Likewise, the compensation awarded by the Tribunal under the heads, 'pain and sufferings at Rs.30,000/-', 'extra nourishment' at Rs.10,000/-, 'loss of earnings' at Rs.20,000/- (for 2 months) and 'loss of amenities' at Rs.20,000/-, this Court is of the view that the same are low and required to be re-determined and accordingly, the same are enhanced to Rs.50,000/-, Rs.20,000/- Rs.60,000/- and Rs.30,000/- respectively. No amount has been awarded towards future medical expenses, considering the disability 33% sustained by the appellant, who requires to spend towards medical expenses in future, this Court feels it appropriate to award a sum of Rs.30,000/-. As regards the compensation awarded under the heads of Transportation, Medical Expenses and Attendant Charges is concerned, this Court is of the view that the Tribunal has rightly awarded and requires no interference and the the same stands confirmed.

8. Accordingly, the compensation awarded by the Tribunal is modified as follows:

<i>S.No</i>	<i>Particulars</i>	<i>Compensation awarded by the Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
1	Disability	1,65,000	1,98,000
2	Medical Expenses	1750	1750



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S.No	Particulars	Compensation awarded by the Tribunal (Rs.)	Compensation awarded by this Court (Rs.)
3	Pain and Sufferings	30,000	50,000
4	Transport Expenses	4000	4,000
5	Extra Nourishment	10,000	20,000
6	Attendant charges	4500	4500
8	Loss of amenities	20000	30000
9	Loss of earnings	20000	60000
10	Future medical expenses	Nil	30000
	Total	255300	398250

9. Accordingly, the award amount stands enhanced from a sum of Rs.2,55,300/- to Rs.3,98,250/-.

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the 2nd respondent is directed to deposit a sum of Rs.3,98,250/- along with interest and costs, less the amount already deposited, if any, within a period of 6 weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.7952 of 2018 on the file of the Motor Accident Claims Tribunal, Special Sub Court -1, Small Causes Court, Chennai. Further, the claimant shall pay necessary Court fee, if any, on the enhanced compensation. Thereafter, the



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Tribunal is directed to immediately transfer the entire amount to the bank accounts of the claimant by way of RTGS, within a period of 3 weeks from the date of deposit and from the date of receipt of the Bank details obtained for the claimant or application for withdrawal from the claimant, whichever is earlier. No costs. In the event, if there is any delay in filing the Appeal, the Insurance Company need not to pay any interest for the delayed period on the amount enhanced by this Court.

18.03.2024

Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
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To:

The Motor Accident Claims Tribunal,
The Special Sub Court -1, Small Causes Court, Chennai.



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KRISHNAN RAMASAMY,J.

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