



CMA No.3088 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.3088 of 2023

Mr.Anand Raj

.. Appellant

.Vs.

The District Collector
Thiruvallur Tk & District.

.. Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 07.09.2023 made in MCOP No.1188 of 2020, on the file of the Motor Accident Claims Tribunal / V- Court of Small Causes – Chennai.

For Appellant : Mr.P.Rajalingam
for Ms.Ramya V.Rao

For Respondent : Mr.A.Anandan
Government Advocate



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JUDGMENT

The claimant not being satisfied with the quantum of compensation fixed by the Tribunal in MCOP No.1188 of 2020, dated 07.09.2023, has filed the present appeal seeking for enhancement of compensation.

2.The case of the claimant is that on 11.01.2020, the claimant was walking in the road alone with his bicycle and at about 22.00 hours when he was going near elephant gate road, offending vehicle which was a Bolero Jeep was driven in a rash and negligent manner and it came in the opposite direction and it dashed on the claimant. The claimant sustained fracture tibial plateau right, fracture talus left. The claimant underwent treatment as an inpatient for 17 days. The Medical Board assessed the disability at 41%. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the offending vehicle.



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4.The Tribunal having rendered the above finding proceeded to fix compensation at Rs.2,91,000/- under various heads as follows:

Sl.No.	Compensation awarded under the head	Amount (in Rs.)
1.	Disability	2,05,000/-
2.	Medical Expenses	1,500/-
3.	Loss of Income	20,000/-
4.	Pain and Suffering & Mental agony	20,000/-
5.	Transportation Expenses	5,000/-
6.	Nutrition Expenses	15,000/-
7.	Damages to Clothes	1,000/-
8.	Attender Charges	8,500/-
9.	Loss of Amenities	15,000/-
	Total	2,91,000/-

5.The above compensation was directed to be paid with interest at the rate of 7.5% p.a.

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

7.Heard Mr.P.Rajalingam, learned counsel for the appellant and Mr.A.Anandan, learned Government Advocate for the respondent.



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8.The accident had taken place in the year 2020. The Tribunal had adopted per percentage method and fixed a sum of Rs.5,000/- per percentage. This Court is inclined to fix Rs.8,000/- per percentage and accordingly, the compensation under the head 'disability' works out to Rs.3,28,000/- [8000 x 41]. The injury sustained by the claimant and also of the fact that he underwent a treatment for an inpatient for 17 days has already been taken note of by this Court. Therefore, this Court is inclined to enhance the compensation under the head 'loss of pain and suffering and mental agony', 'transportation expenses', 'nourishment expenses' and 'attender charges' to Rs.35,000/-, Rs.15,000/-, 25,000/- and Rs.17,000/- respectively.

9.Insofar as 'loss of income' is concerned considering the nature of injury sustained by the claimant and his avocation, the claimant would not have been able to attend work for atleast 4 months. Therefore, This Court is inclined to fix a sum of Rs.40,000/- [4 x Rs.10,000/-] under the head 'loss of income'.

10.The compensation that has been granted under the other heads are reasonable and it does not require the interference of this Court.

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



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Sl.No.	Compensation awarded under the head	Amount (in Rs.)
1.	Disability [41 x Rs.8000/-]	3,28,000/-
2.	Medical Expenses	1,500/-
3.	Loss of Income [4 * 10000]	40,000/-
4.	Pain and Suffering & Mental agony	35,000/-
5.	Transportation Expenses	15,000/-
6.	Nutrition Expenses	25,000/-
7.	Damages to Clothes	1,000/-
8.	Attender charges	17,000/-
9.	Loss of amenities	15,000/-
	Total	4,77,500/-

12. The compensation awarded by the Tribunal at Rs.2,91,000/- is enhanced to Rs.4,77,500/-. The respondent is directed to deposit the enhanced compensation, less the amount already deposited, together with interest @ 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. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant/claimant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



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N. ANAND VENKATESH., J

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In the result, this Civil Miscellaneous Appeal is partly allowed. No costs.

31.07.2024

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

To

The District Collector
Thiruvallur Tk & District.

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