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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1641 of 2024

Mr.P.Lokesh

... Appellant

.VS.

1.D.Archana

2.United India Insurance Company Limited,
Motor Third Party Hubb, 4th Floor,
Silinghi Buildings, 134,
Greems Road, Thousand Lights,
Chennai – 600 006.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the decree and judgment dated 20.01.2023 made in MACT OP No.1927 of 2016, on the file of the II Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

For Appellant : Mr.M.Mahendran

For Respondents : Mr.R.Rajesh for R2

JUDGMENT

The claimant not being satisfied with the quantum of compensation awarded by the Tribunal in MACT OP No.1927 of 2016, dated 20.01.2023 has filed this appeal seeking for enhancement of compensation.



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2.The case of the claimant is that on 28.09.2015, he was riding a two wheeler from Alandur-Thousand Lights and at about 11 a.m., when he was proceeding opposite to R.K.Industries, the offending vehicle which was a van was driven in a rash and negligent manner and it came from the opposite direction and hit the motor cycle. The claimant fell down and he sustained right femur fracture. The claimant underwent treatment as an inpatient for nearly nine days and operation was performed. The Medical Board assessed the disability at 33%. 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. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.5,56,865/- (rounder off Rs.5,56,900/-) under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Towards Disability	1,32,000
2.	Towards Pain and Sufferings	50,000



S.No	Compensation awarded under the head	Amount (in Rs.)
3.	Towards Loss of earning	NIL
4.	Towards Medical Expenses	2,74,865
5.	Towards Loss of Amenities	50,000
6.	Towards Attender Charges	10,000
7.	Towards Transportation Charges	20,000
8.	Towards Extra Nourishment	20,000
	Total	5,56,865
	Rounded off	5,56,900

4.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

5.The claimant not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal before this Court seeking for enhancement of compensation.

6.Heard Mr.M.Mahendran, learned counsel appearing on behalf of the appellant and Mr.R.Rajesh, learned counsel appearing on behalf of the 2nd respondent.

7.This Court has carefully considered the submissions made on either side and also the materials available on record.



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8.The accident in this case had taken place in the year 2015. The Tribunal adopted the per percentage method. However, only a sum of Rs.4,000/- was fixed per percentage. This Court is inclined to increase the same to Rs.5,000/- per percentage. Accordingly, the compensation under the head of disability is fixed at Rs.1,65,000/- (Rs.5000/- x 33).

9.The Tribunal has not granted any compensation under the head of loss of income. The claimant was a sales representative and considering the injuries sustained, he would not have been able to attend the work for atleast two months. Hence, this Court is inclined to fix a sum of Rs.20,000/- under the head of loss of income.

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

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



S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Towards Disability	1,65,000
2.	Towards Pain and Sufferings	50,000
3.	Towards Loss of earning	20,000
4.	Towards Medical Expenses	2,74,865
5.	Towards Loss of Amenities	50,000
6.	Towards Attender Charges	10,000
7.	Towards Transportation Charges	20,000
8.	Towards Extra Nourishment	20,000
	Total	6,09,865
	Rounded off	6,09,900

12.The compensation awarded by the tribunal at Rs.5,56,900/- is enhanced to Rs.6,09,900/-. The second respondent insurance company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 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 claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



N. ANAND VENKATESH., J

ssr

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

12.07.2024

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

To

The II Small Causes Court, (Motor Accident Claims Tribunal), Chennai.

CMA No.1641 of 2024