



C.M.A.No.3059 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2024

C O R A M

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

C.M.A.No.3059 of 2023

G.Baskaran

...Appellant

Vs

1.S.Karthick
2.United India Insurance Co. Ltd.,
No.234, Sillingi Building,
Greens Road,
Chennai 600 006.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation awarded in the judgment and decree dated 27.06.2023 passed in MCOP.No.700 of 2014 on the file of the Motor Accident Claims Tribunal (In the III Court of Small Causes, Chennai).

For Appellant : Mr.K.Balaji
For Respondent : Dr.C.Paranthaman for R2



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JUDGMENT

This civil miscellaneous appeal has been filed to enhance the compensation awarded vide the judgment and decree dated 27.06.2023 in MCOP.No.700 of 2014.

2. The learned counsel for the claimant would submit that on 09.02.2008, while the claimant was travelling as a passenger in a car bearing Registration No.TN-20-Q-8899 in GST Road, Naganoor, the driver of the said car drove the vehicle in a rash and negligent manner and dashed against a stationery lorry, due to which the claimant had sustained grievous injury. Considering all the aspects, the Tribunal had awarded the compensation in the following manner:

<i>S.No</i>	<i>Heads</i>	<i>Compensation (Rs.)</i>
1	Disability	90,000
2	Pain and Sufferings	30,000
3	Transportation	4,000
4	Medical Expenses	1,67,063
5	Extra Nourishment	10,000
6	Attender Charges	3,900
7	Damage of Clothes	1,000
8	Loss of Amenities	10,000
9	Loss of Earnings	10,000



<i>S.No</i>	<i>Heads</i>	<i>Compensation (Rs.)</i>
	Total	3,25,963
	Rounded Off	3,26,000

3. Further, he would submit that due to the said accident, the claimant had sustained severe injuries such as multiple post traumatic intra-cerebral hemorrhagic contusion with pneumocephalus, multiple fracture facial bones, comminuted fracture right distal radius, multiple facial abrasions and lacerations, multiple right side fracture RIBS and right hydropneumothorax with lung contusion. For the said injuries, the Medical Board had assessed the disability at 30%. At the time of accident the claimant, was working as a Fitter and due to the said injuries, he is unable to carry on his avocation. However, without considering the same, the Tribunal had awarded the compensation of only a sum of Rs.90,000/- (Rs.3,000/- per percentage) by applying percentage method, which is on the lower side. Hence, he requests this Court to enhance the same by applying multiplier method.

4. In reply, the learned counsel appearing for the respondent would submit that the compensation awarded by the Tribunal is just and reasonable



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and the same does not require any re-consideration. Hence, he requests this Court to confirm the award passed by the Tribunal.

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

6. In the present case, it appears that due to the accident occurred in the year 2008, the claimant had sustained severe injuries, for which the disability was assessed at 30% by the Medical Board. Since the claimant is a Fitter and he sustained the injuries at his right wrist, he was unable to carry on his avocation. When such being the case, the Tribunal is supposed to have applied the multiplier method instead of percentage method. Hence, this Court is inclined to award compensation by applying multiplier method.

7. Therefore, as per the law laid down by the Hon'ble Apex Court, considering the year of accident and age and avocation of the claimant, this Court is inclined to fix a sum of Rs.6,500/- as notional income of the claimant. Further, by adding 10% towards future prospects, by applying multiplier 11 and



taking 20% as functional disability, the loss of income due to disability would be calculated as follows:

$$\text{Rs.6,500/- (notional income) + Rs.650/- (10\% future prospects) * 12 (months) } \\ 11 \text{ (multiplier) * 20/100 (functional disability) = Rs.1,88,760/-}$$

8. Further, it appears that no amount was awarded towards Future Medical Expenses and hence, this Court is inclined to award a sum of Rs.25,000/- towards the same. That apart, since the compensation awarded towards Loss of Earnings for a sum of Rs.10,000/- appears to be on the lower side, the same stands enhanced to a sum of Rs.20,000/-.

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

<i>S.No.</i>	<i>Heads</i>	<i>Compensation awarded by Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
1	Disability	90,000	1,88,760
2	Pain and Sufferings	30,000	30,000
3	Transportation	4,000	4,000
4	Medical Expenses	1,67,063	1,67,063
5	Extra Nourishment	10,000	10,000
6	Attender Charges	3,900	3,900



<i>S.No.</i>	<i>Heads</i>	<i>Compensation awarded by Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
7	Damage of Clothes	1,000	1,000
8	Loss of Amenities	10,000	10,000
9	Loss of Earnings	10,000	20,000
10	Future Medical Expenses	Nil	25,000
	Total	3,25,963	4,59,723
	Rounded Off	3,26,000	4,59,760

10. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.4,59,760/-. Accordingly, the award amount stands increased from a sum of Rs.3,26,000/- to Rs.4,59,760/-. In all other aspects, the award of the Tribunal stands confirmed.

11. In the result, this Civil Miscellaneous Appeal is partly allowed and the 2nd respondent is directed to deposit a sum of Rs.4,59,760/- along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.700 of 2014 on the file of the Motor Accident Claims Tribunal (In the III Court of Small Causes, Chennai). Upon such deposit, the Tribunal is directed to transfer the award amount to bank account of the claimant, by way



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of RTGS, within a period of three weeks from the date of deposit and receipt of the Bank details obtained from the claimant. No costs.

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



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KRISHNAN RAMASAMY,J.

nsa

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