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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1533 of 2024

Dhatchanamoorthis

..Appellant

.VS.

1.Gnanavel

2.National Insurance Co., Ltd.,
1st Floor, Muruga Theater Complex,
12, K.K.Road,
Villupuram – 605 602.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the Decree and Judgment dated 17.06.2020 made in MCOP No.335 of 2019 on the file of the Motor Accident Claims Tribunal, Villupuram.

For Appellant : Mr.S.Chendur Eashwaran

For Respondents : Ms.Sandhiya Priyadharshini for
Dr.C.Paranthaman for R2



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JUDGMENT

The claimant not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.335 of 2019, dated 17.06.2020 has filed this appeal seeking for enhancement of compensation.

2.The case of the claimant is that on 02.10.2017, he was travelling in a two wheeler as a pillion rider which was driven by his son and at about 6.15 a.m., suddenly a dog crossed the road. As a result of which, the rider of the vehicle lost balance and the claimant also fell down and he sustained left hip intertrochanteric fracture and right clavicle lateral end fracture. The Medical Board assessed the disability at 62%. 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 negligence on the part of the rider of the two wheeler. Having rendered the above finding, the Tribunal fixed the total compensation at Rs.3,01,656/- under various head as follows:



S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Pain and Sufferings	30,000
2.	Permanent Disability and Future Prospects	90,000
3.	Loss of Income	18,000
4.	Extra Nourishment	10,000
5.	Damages to clothes	1,000
6.	Transportation	10,000
7.	Medical Expenses	1,32,656
8.	Attender Charges	10,000
	Total	3,01,656

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.S.Chendur Eashwaran, learned counsel appearing on behalf of the appellant and Mr.J.V.Sandhiya Priyadharshini, 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 main grievance expressed by the learned counsel for the appellant pertains to the notional monthly income that was fixed by the Tribunal. The claimant was aged about 70 years at the time of the accident and he was a retired school teacher. The claimant came up with a case that he was running a provisional store and was earning a sum of Rs.30,000/- per month. There was no proof regarding the occupation of the claimant as well as the monthly income earned by the claimant. Therefore, the Tribunal fixed Rs.3,000/- per month as the notional monthly income. This is slightly on the lower side and this Court is inclined to fix a sum of Rs.5,000/- as notional monthly income in this case. Thus, the compensation under the head of disability is calculated as follows:

$$\text{Rs.5,000} \times 12 \times 5 \times 1/2 = \text{Rs.1,50,000/-}$$

9.The claimant had underwent treatment as an inpatient from 02.10.2017 to 14.10.2017. Considering the nature of injuries sustained by the claimant, the compensation under the head of pain and sufferings is enhanced from Rs.30,000/- to Rs.50,000/-.

10.The compensation under the head of loss of income is enhanced to



Rs.30,000/- (Rs.5000/- x 6 months)

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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.	Pain and Sufferings	50,000
2.	Permanent Disability and Future Prospects	1,50,000
3.	Loss of Income	30,000
4.	Extra Nourishment	10,000
5.	Damages to clothes	1,000
6.	Transportation	10,000
7.	Medical Expenses	1,32,656
8.	Attender Charges	10,000
	Total	3,93,656

12.The compensation awarded by the tribunal at Rs.3,01,656/- is enhanced to Rs.3,93,656/-. The second respondent insurance company is directed to deposit the enhanced compensation of Rs.3,93,656/-, 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



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N. ANAND VENKATESH., J

ssr

receipt of this judgment. Insofar as the enhanced compensation of Rs.92,000/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay period of 568 days as was ordered by this Court in C.M.P.No.4255 of 2021, dated 12.06.2024. 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.

13.In the result, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

05.07.2024

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

To

The Motor Accident Claims Tribunal, Villupuram.

05.07.2024