



CMA.No.87 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.87 of 2024

Saran

.... Appellant

VS.

1. Abdul Rahman

2. The United India Insurance Company Limited,
Third Party Hub, Silinghi Building
No.134, Grems Road, Chennai 600 006.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 30.06.2023 in M.C.O.P.No.1029/2018 on the file of the Special Sub-judge No.II, Court of Small Causes, Chennai.

For Appellants : Mr.S.P. Yuvaraj

For R2 : Mrs. R. Vijayakamala



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JUDGMENT

The appellant is the claimant in M.C.O.P.No.1029/2018 on the file of the Special Sub-Judge No.II, Court of Small Causes, Chennai, and he filed the claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation of Rs.15,00,000/- for the injuries sustained by him in a road accident that occurred on 15.08.2017.

2. On 15.08.2017 the claimant was travelling as a pillion rider in a motorcycle bearing Registration Number TN 03 S 7987, which was driven by one Parthiban. Both of them were proceeding towards S.N. Chetty Road, Chennai. At about 8 p.m., a speeding motorcycle bearing Registration Number TN 06 R 4803 came in the opposite direction and hit the two wheeler as a result of which both of them fell down and sustained injuries all over their body and were immediately rushed to Government Stanley Hospital, Chennai. While Parthiban died on the way to hospital, the claimant was admitted in the hospital for 15 days and then discharged.



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3. According to the claimant, the rash and negligent driving of the driver of the motorcycle bearing Registration Number TN 06 R 4803, was the cause of the accident and that since the said vehicle was insured with the second respondent, the United India Insurance Company Limited, Chennai, the owner and the insurer are jointly and severally liable to pay compensation to them.

4. In the Tribunal the owner of the motorcycle remained absent and was set *ex parte*. The second respondent Insurance Company resisted the claim petition on all the grounds available to the insurer under Section 170 of the Motor Vehicles Act.

5. The Tribunal, after analysing the evidence on record, fastened negligence on the part of the rider of the motorcycle bearing Registration Number TN 06 R 4803, and directed the second respondent, insurer of the said motorcycle, to pay compensation of Rs.2,96,500/- to the claimant together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. The Tribunal also held that the



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liability of the Insurance Company and the owner of the motorcycle is joint and several.

6. Aggrieved over the quantum of compensation, the claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988

7. Heard Mr.S.P.Yuvaraj, learned counsel appearing for the appellant and Mrs. R. Vijayakamala, learned counsel appearing for the second respondent Insurance Company.

8. Mr.S.P.Yuvaraj, learned counsel for the appellant contended that the Award passed by the Tribunal is not commensurate with the injuries sustained by the claimant. He, therefore, prayed for enhancement of compensation.

9. Per contra, Mrs. R. Vijayakamala, learned counsel appearing for the second respondent Insurance Company contended that the Tribunal, after analysing the evidence on record, had awarded just



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compensation and therefore the same need not be disturbed in the present appeal.

10. A perusal of the discharge summary (Ex.P19) issued by the Government Stanley Hospital, Chennai, shows that the claimant sustained multiple injuries and the nature of injuries are shown as grievous. The Medical Board attached to Government Royapettah Hospital, Chennai, assessed the disability of the claimant as 40%. The Tribunal awarded a sum of Rs. 2,00,000/- towards partial permanent disability by fixing Rs.5,000/- per percentage of disability since there is no functional disability. Considering the year of accident and the age of the claimant, a sum of Rs.7,000/- per percentage of disability is awarded. Hence, a sum of Rs.2,80,000/- is awarded towards partial permanent disability.

10.1. The following tabular column would show the amount awarded by the Tribunal and the enhanced amount awarded by this Court under various heads.



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<i>S.No.</i>	<i>Description</i>	<i>Amount awarded by Tribunal (Rs.)</i>	<i>Amount awarded by this Court (Rs.)</i>
1.	Partial permanent disability	2,00,000/- (40x5000)	2,80,000/- (40x7000)
2.	Pain and sufferings	50,000/-	50,000/-
3.	Loss of Income	10,000/-	10,000/-
4.	Extra nourishment	15,000/-	15,000/-
5.	Transportation charges	4,000/-	4,000/-
6.	Attender charges	7,500/-	7,500/-
7.	Loss of amenities	10,000/-	10,000/-
	Total	2,96,500/-	3,76,500/-

10.2. Thus, the compensation awarded by the Tribunal is enhanced to Rs.3,76,500/- that would carry interest at the rate of 7.5% per annum.

11. In the result,

- The Civil Miscellaneous Appeal is partly allowed. No costs.
- The compensation awarded by the Tribunal is enhanced to Rs.3,76,500/-.



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- iii. The appellant / claimant is directed to pay court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after receipt of Court fee.
- iv. The second respondent, the The United India Insurance Company Limited, Chennai, is directed to deposit the enhanced compensation amount of Rs.3,76,500/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.1029/2018 on the file of the Special Subjudge No.II, Court of Small Causes, Chennai, within a period of four weeks from the date of receipt of a copy of this order/uploading of this order.
- v. On such deposit being made, the appellant/claimant is at liberty to withdraw the same, after following due process of law.

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Index : Yes/No
Speaking/Non-speaking order

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To

1. Special Subjudge No.II, Court of Small Causes, Chennai.
2. The United India Insurance Company Limited,
Third Party Hub, Silinghi Building
No.134, Greams Road, Chennai 600 006.
3. The Section Officer, VR Section, Madras High Court, Chennai.



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R.HEMALATHA, J.

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