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C.M.A.No.148 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2024

CORAM :

The Hon'ble Mr. Justice Krishnan Ramasamy

C.M.A.No.148 of 2024

A.Kumar

... Appellant

Vs.

1. S.Padmapriya

2. The Divisional Manager,
New India Assurance Company Ltd.,
No.1, Bharathi Road,
Cuddalore.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the fair and decreetal order dated 18.03.2011 passed in M.C.O.P.No.1926 of 2008 by the Motor Accident Claims Tribunal (II Additional Subordinate Judge), Cuddalore.

For Appellant : Ms.J.Malathi
for Mr.R.Kamaraj

For R2 : Ms.A.Salomi



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JUDGEMENT

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This Civil Miscellaneous Appeal has been filed, challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal, II Additional Subordinate Judge, Chennai in M.C.O.P.No.1926 of 2008 dated 18.03.2011.

2. On 06.07.2008 at about 6.55 a.m., when the claimant/injured was riding his bicycle, he was hit by a car bearing Reg.No.PY.01.AB-3133, which came in a rash and negligent manner behind the injured, and due to the said accident, the claimant sustained grievous injuries. Thereafter, the appellant has filed a claim petition before the Tribunal, claiming a compensation of Rs.5,00,000/-.

3. On consideration of oral and documentary evidence, the Tribunal has awarded a sum of Rs.1,02,000/- towards compensation to the appellant. Not satisfied with the same, the appellant/claimant, filed the present appeal.

4. The learned counsel for the appellant submitted that, the appellant has suffered grievous injuries in his right hand elbow and injuries in his right leg and left hand. Without considering the nature of injuries, the Tribunal awarded



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compensation of Rs.1,02,000/- under various heads, which is on the lower side, and the same is required to be re-considered by this Court. Accordingly, he prays for appropriate enhancement in favour of the appellant.

5. The learned counsel for the second respondent/Assurance Company submitted, that the award passed by the Tribunal is just and fair and requires no interference.

6. Heard the learned counsel for the appellant and the learned counsel on behalf of the second respondent and perused the materials available on record.

7. The fact and manner of the accident is not disputed by the parties. Therefore, this Court is not dealing with the said aspect. The only grievance of the appellant is with regard to the quantum of compensation awarded. In the present case, the Doctor assessed the disability of the claimant at 25%, and, this Court, vide order dated 30.01.2024, directed the appellant/claimant to appear before this Court. Today, the claimant also appears before this Court, and this Court noticed, that, due to injuries, there is some deformation in the right hand elbow, but he can able to move all his fingers in his right hand. On perusal of the Tribunal's award, it appears that the Tribunal has awarded a sum of



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Rs.72,000/- towards “loss of income”, which is just and reasonable.

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8. As far as the compensation awarded under other heads viz., Pain and suffering, transportation, medical expenses, extra nourishment by the Tribunal is concerned, requires no interference. It appears that, no amount has been awarded under the head of “loss of amenities”. Taking into consideration of the injuries sustained by the claimant, this Court is inclined to award a sum of Rs.5,000/- towards “loss of amenities”. Thus, the compensation awarded by the Tribunal is modified as under:

<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Loss of Income	72,000/-	72,000/-
Pain and Sufferings	15,000/-	15,000/-
Extra Nourishments	5,000/-	5,000/-
Medical Expenses	5,000/-	5,000/-
Transportation	5,000/-	5,000/-
Loss of Amenities	Nil	5,000/-
Total	1,02,000/-	1,07,000/-

9. The appeal is partly allowed and the impugned Award of the Tribunal



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is modified by enhancing the compensation amount from **Rs.1,02,000/-** to **Rs.1,07,000/-**. The second respondent/Assurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.1926 of 2008 along with interest from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. Upon such deposit being made, the Tribunal is directed to transfer the entire amount to the bank account of the claimant, by way of RTGS, within a period of three weeks from the deposit or from the date of receipt of the Bank details obtained from the claimant or application for withdrawal from the claimant, whichever is later. With regard to enhanced amount, the claimant is not entitled for any interest. No costs.

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Index : Yes / No
NCC : Yes / No
jd

To



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1. The Motor Accident Claims Tribunal,
II Additional Subordinate Judge,
Cuddalore.

2. The Section Officer,
V.R. Section,
High Court, Madras.



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Krishnan Ramasamy,J.,

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