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C.M.A.No.99 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2024

CORAM :

The Hon'ble Mr. Justice Krishnan Ramasamy

C.M.A.No.99 of 2024

R.Prabhu

... Appellant/Petitioner

Vs.

1. M/s.Ideal Beach Resort
4/200, South 1st Cross Street,
Kabaleeswarar Nagar, Neelangarai,
Chennai 600 041.

2. The New India Assurance Co Ltd.,
RajaRajeshwari Towers 4th Floor,
N.No.51, Dr.Radhakrishnan Salai,
Mylapore, Chennai 600 004.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 for enhancement of compensation against the fair and decreetal order dt.11.6.2012 in M.C.O.P.No.467 of 2010 on the file of the Motor Accidents Claims Tribunal/IV Judge i/c V Judge Court of Small Causes, Chennai.

For Appellant : M/S.Ramya V.Rao

For R2 : Mr.S.Arun Kumar



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JUDGEMENT

This Civil Miscellaneous Appeal has been preferred by the claimant, challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal/IV Judge i/c V Judge Court of Small Causes, Chennai, in M.C.O.P.No.467 of 2010, dated 11.06.2012.

2. On 28.01.2010 at about 20.00 hours, when the injured/claimant was crossing the E.C. Road, opposite to Madha Koil, Vadanemili, Kanchi District proceeding from East to West direction, a car bearing Reg.No.TN 07 BE 4285, driven by its driver in a rash and negligent manner, and dashed against the injured/claimant. Due to said accident, the injured sustained grievous injuries all over his body. Thereafter, the appellants have filed a claim petition before the Tribunal, claiming a compensation of Rs.6,00,000/-.

3. The learned counsel for the appellant submitted that, on



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considering the nature of injuries sustained by the claimant, and as per the certificate of disability, the total aggregate of permanent disability suffered by the claimant is 60%. Though the disability was assessed at 60%, however, for the purpose of awarding compensation, the Tribunal had reckoned it at 55% at the rate of Rs.2,000/- per percentage, and awarded a sum of Rs.1,10,000/- which is on the lower side and the same is required to be enhanced at the rate of Rs.3,000/- per percentage. Accordingly, he prays for appropriate enhancement in favour of the claimant.

4. Per contra, the learned counsel appearing for the second respondent/Assurance Company would fairly submit that reasonable compensation may be granted by fixing fair amount towards per percentage of disability.

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



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6. 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 by the Tribunal. It is claimed by the appellant that the permanent disability was fixed at 55% and granted compensation of Rs.1,10,000/- at the rate of Rs.2,000/- per percentage is very meager, which is required to be enhanced. Considering the fair submission made by the appellant, this Court is inclined to award a sum of Rs.1,65,000/- towards permanent disability by fixing Rs.3,000/- per percentage to the claimant. Hence, the permanent disability of the injured stands increased to Rs.1,65,000/-. Further, no amount was awarded under the head of “loss of amenities”, and therefore, this Court is inclined to award Rs.10,000/- towards loss of amenities.

7. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-



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<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Loss of Income	27,000/-	27,000/-
Transport to Hospital	5,000/-	5,000/-
Extra Nourishment	10,000/-	10,000/-
Medical Expenses	6,100/-	6,100/-
Future medical expenses	30,000/-	30,000/-
Attender charges	5,000/-	5,000/-
Pain and sufferings	50,000/-	50,000/-
Permanent disability	1,10,000/-	1,65,000/- (enhanced)
Loss of amenities	Nil	10,000/- (awarded)
Total	2,43,100/-	3,08,100/-

8. Accordingly, the Appeal is partly allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.2,43,100/-** to **Rs.3,08,100/-**. The second respondent/Assurance Company is directed to deposit the said amount along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.467 of 2010 on the file of IV Judge i/c V Judge Court of Small Causes, Chennai. Upon such deposit



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being made, the Tribunal is directed to transfer the entire amount to the respective bank account of the claimant, the petitioner/claimant is entitled to receive the entire compensation amount, 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. It is made clear that the claimant will not be entitled for any interest for the delay period of 687 days. The appellant/claimant is directed to pay the necessary Court fee for the enhanced compensation amount. The Tribunal below shall not disburse the enhanced amount till such time the certified copy showing proof of payment of Court fee is produced by the claimants. No costs.

19.01.2024

Index : Yes / No
NCC : Yes / No
jd

To

1. The Motor Accident Claims Tribunal,
IV Judge i/c V Judge Court of Small Causes, Chennai.
2. The Section Officer,
V.R. Section,
High Court, Madras.



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Krishnan Ramasamy,J.,

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