



C.M.A.No.211 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2024

C O R A M

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

C.M.A.No.211 of 2024

and

C.M.P.No.2186 of 2024

United India Insurance Co., Limited,
No.23/81, Nainiappa Naicken Street,
Chennai 3.

...Appellant

Vs

1.R.John Kumar
2.Basetty Babu.R

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award made in MCOP.No.768 of 2013 dated 17.07.2013 on the file of the Motor Accident Claims Tribunal (II Small Causes Court), Chennai.

For Appellant : Ms.K.Saraswathi
For Respondent : Mr.K.Varadha Kamaraj for R1



JUDGMENT

This civil miscellaneous appeal has been filed to enhance the compensation awarded vide the judgment and decree dated 17.07.2013 in MCOP.No.768 of 2013.

2. The learned counsel for the appellants would submit that on 21.01.2012 while the appellant was riding his Motor Cycle bearing Registration No.TN-05-Y-7411 at Kolathur Redhills Road, another Motor Cycle bearing Registration No.TN-04-AC-7132 came in a rash and negligent manner and dashed against him, due to which, he had sustained grievous injuries. Considering all the aspects the Tribunal had awarded the following compensation:

<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
1	Loss of Income	48,000
2	Transportation	20,000
3	Extra Nourishment	10,000
4	Medical Expenses	73,600
5	Future Medical Expenses	30,000
6	Pain and Sufferings	75,000
7	Disability	1,20,000
	Total	3,76,600



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3. He would contend that in the present case, the claimant had sustained Comminuted intra articular condylar fracture right tibia, avulsion injury of dorsum right foot fracture dislocation ATP foot of right middle finger, which is not severe in nature and and he was only treated as in-patient in the Hospital for 96 days, for which the medical reimbursement was also awarded by the Tribunal. Further, he would contend that for the aforesaid injuries, the Doctor, who examined the injured had determined 50% as disability, which is totally unreasonable and thereafter, by non-application of mind, the Tribunal had also taken 30% as functional disability, which is on higher side. Hence, he requests this Court to reduce the same.

4. He would also contend that the Tribunal had awarded loss of income of a sum of Rs.8,000/- to the claimant for a period of 6 months, which is on higher side. Hence, he requests this Court to reduce the same for a period of 3 months.



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5. Today, the claimant had appeared before this Court. The learned counsel for the claimant would suggest this Court to re-fix 20% as functional disability and also requests this Court to confirm the compensation awarded by the Tribunal in all the other heads.

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

7. In the present case, considering the nature of injuries sustained by the claimant, the disability determined by the Doctor, on the face of it, appears to be unreasonable, since in many number of cases, this Court had only taken 15% as functional disability for these types of injuries. In such view of the matter, considering the nature of injuries, this Court is inclined to fix 20% as functional disability and award a sum of Rs.3,000/- per percentage as compensation. Accordingly, the disability would be calculated as follows:

$$\text{Rs.3,000/- (amount per percentage)} * 20\% \text{ (functional disability)} = \text{Rs.60,000/-}$$



8. As far as the loss of income is concerned, this Court feels that it would be appropriate to award the compensation for a period of 3 months instead of 6 months. Accordingly, the same would be calculated as follows:

$$\text{Rs.8,000/- (income)} * 3 \text{ (months)} = \text{Rs.24,000/-}$$

9. Further, it appears that the compensation awarded towards the “Pain and Sufferings” and “Transportation” for a sum of Rs.75,000/- and Rs.20,000/- appears to be on the higher side. Hence, the same are reduced to a sum of Rs.25,000/- and 7,500/- respectively. With regard to all the other heads, the compensation awarded by the Tribunal appears to be just and reasonable. Hence, the same stands confirmed.

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

<i>S.No</i>	<i>Particulars</i>	<i>Compensation awarded by the Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
1	Loss of Income	48,000	24,000
2	Transportation	20,000	7,500
3	Extra Nourishment	10,000	10,000



S.No	Particulars	Compensation awarded by the Tribunal (Rs.)	Compensation awarded by this Court (Rs.)
4	Medical Expenses	73,600	73,600
5	Future Medical Expenses	30,000	30,000
6	Pain and Sufferings	75,000	25,000
7	Disability	1,20,000	60,000
	Total	3,76,600	2,30,100

11. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.2,30,100/-. Accordingly, the award amount stands reduced from a sum of Rs.3,76,600/- to Rs.2,30,100/-. In all other aspects, the award of the Tribunal stands confirmed.

12. In the result, this Civil Miscellaneous Appeal is partly allowed. The learned counsel for the appellant would submit that they had already deposited the entire amount awarded by the Tribunal and the same has also withdrawn by the claimant. In such view of the matter, the claimant is directed to deposit the balance amount after deducting a sum of Rs.2,30,100/- along with interest at the rate of 7.5% per annum from the date of accident till the date of deposit, within a period of 6 weeks from the date of receipt of a copy of this judgment, to the



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credit of MCOP.No.768 of 2013 on the file of Motor Accident Claims Tribunal (II Small Causes Court) Chennai. Thereafter, the appellant is permitted to withdraw the amount deposited by the claimant. No costs. Consequently, the connected miscellaneous petition is also closed.

05.02.2024

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

To:

The Motor Accident Claims Tribunal,
II Small Causes Court, Chennai.



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KRISHNAN RAMASAMY,J.

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