



C.M.A.(MD)No.977 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : **30.08.2024**

CORAM :

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A(MD)No. 977 of 2024

Dr.M.Rathinaprakash

... Appellant/Petitioner

Vs.

1.M.Rahima

2.The Manager,
Royal Sundram General Insurance Company Ltd.,
D.No.5B/51(4), 2nd Floor,
1st main Road, Gandhi Nagar,
X2 Chennai, Adaiyar,
Chennai – 20.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act against the order dated 16.10.2023 in M.C.O.P.No. 101 of 2021 on the file of the Motor Accidents Claims Tribunal, CJM Court, Srivilliputtur.

For Appellant : Mr.M.Vijayarathinam

For R2 : Mr.S.Srinivasa Raghavan

R1 : Dispensed with

JUDGMENT

The instant appeal is filed by the claimant seeking enhancement of compensation awarded by the Tribunal.



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2. The appellant filed a claim petition stating that while he was riding a motorcycle, the driver of the insured vehicle came in a rash and negligent manner and dashed against the motorcycle, as a result of which, he sustained grievous injuries.

3. The appellant filed a counter stating that the accident did not take place due to negligent driving of the driver of the insured vehicle, and in any case, the compensation claimed was excessive.

4. The appellant examined himself as P.W.1 and the doctor as P.W.2 and marked Ex.P.1 to Ex.P.19. The disability certificate issued by the medical board was marked as Ex.C.1. The 2nd respondent neither examined any witness nor marked any document.

5. The Tribunal, after considering the oral and documentary evidence on record, held that the 2nd respondent is liable to pay compensation of Rs.10,22,145/- under various heads.

6. The learned counsel for the appellant submitted that the compensation awarded is meagre; that the Tribunal ought to have



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awarded compensation for loss of earning for a period of one year; that the compensation awarded under the heads pain and suffering and attendant charges is very meagre, and that hence the compensation amount has to be enhanced.

7. Since the 1st respondent remained exparte before the Tribunal, notice to the 1st respondent was dispensed with.

9. The learned counsel for the 2nd respondent per contra submitted that in the absence of any proof of income, the award under the head the loss of income is exorbitant, and in any case, the award of the Tribunal is fair, and therefore, there is no reason to interfere with the award.

10. Heard the learned counsel for the appellant and the learned counsel for the 2nd respondent and perused the records.

11. The only point for consideration in the instant appeal is whether the award of compensation granted by the Tribunal is just and reasonable.



12. Admittedly, the medical board had assessed the disability of the appellant at 10%. The appellant had not challenged the disability certificate issued by the medical board. That apart, the appellant had not established that he had suffered any functional disability. In such circumstances, the award of the Tribunal granting compensation on a percentage basis cannot be faulted.

13. The Tribunal had awarded Rs.5,40,000/- under the head loss of earning by holding that the appellant would have lost income for a period of six months. This Court finds that the award is more than reasonable as the appellant had not let-in any evidence to show that he had suffered loss of income for more than six months.

14. As regards the compensation under the head pain and suffering, this Court is of the view that considering the nature of injuries and the surgeries performed on the appellant, the same may be enhanced to Rs.1,00,000/-. The compensation awarded under the head future medical expenses by the Tribunal is justified since the appellant suffered injuries in the leg. The award of compensation under the head attendant charges at Rs.5,500/- is meagre. This Court is of the view that it would be



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reasonable to award Rs.30,000/- under the head attendant charges. Thus, the award of compensation is modified as follows:

<i>Sl. No.</i>	<i>Heads of Compensation</i>	<i>Amount awarded by Tribunal (Rs.)</i>	<i>Amount awarded by this Court (Rs.)</i>	<i>Award confirmed or enhanced or granted</i>
1.	Partial permanent Disability	50,000.00	50,000.00	Confirmed
2.	Pain and suffering	30,000.00	1,00,000.00	Enhanced
3.	Extra- nourishment	20,000.00	20,000.00	Confirmed
4.	Future Medical expenses	50,000.00	50,000.00	Confirmed
5	Attendant charges	5,500.00	30,000.00	Enhanced
6.	Transportation	5,500.00	5,500.00	confirmed
7.	Damages to Articles	1,000.000	1,000.00	Confirmed
8.	Medical expenses	3,20,145.00	3,20,145.00	Confirmed
9.	Loss of earnings	5,40,000.00	5,40,000.00	Confirmed
Total :		10,22,145.00	11,16,645.00	Enhanced

15. The 2nd respondent shall deposit the enhanced amount with accrued interest after deducting the amount already deposited within a period of four weeks from the date of receipt of a copy of this judgment . The appellant/claimant is permitted to withdraw the same by filing a suitable application.



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16. In fine, this appeal is partly allowed. No costs.

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Index : Yes / No
Neutral Citation : Yes / No
CM

To

1.Motor Accidents Claims Tribunal, CJM Court, Srivilliputtur.

2. The Section Officer,

V.R.Section,

Madurai Bench of Madras High Court,

Madurai.



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SUNDER MOHAN, J.

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Judgment made in
C.M.A(MD)No. 977 of 20224

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