



C.M.A.No.1444 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2025

CORAM:

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

Civil Miscellaneous Appeal No.1444 of 2022

Sakthi

... Appellant / Petitioner

Vs.

1. V.VinothKumar

2. The Branch Manager,
The New India Assurance Co., Ltd.,
No.99/C-3, I Floor,
Opp. New Bus Stand,
Perambalur,
Policy No:73090031170300000288

... Respondents / Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 22.03.2021 passed in M.C.O.P.No.54 of 2018 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Perambalur.

For Appellant	:	Mr.J.Sourirajan For Mr.A.Prabhu Saravana
For R1	:	No appearance
For R2	:	Mr.K.Vinod



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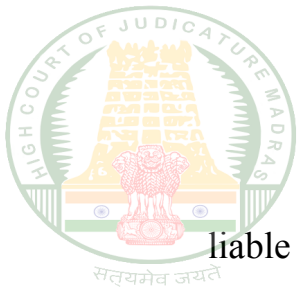
JUDGMENT

WEB COPY This Civil Miscellaneous Appeal has been filed by the claimant seeking for enhancement of compensation awarded in M.C.O.P.No.54 of 2018 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Perambalur.

2. For the sake of convenience, the parties are referred to hereunder according to their litigative status and ranking before the Tribunal.

3. The claimant suffered motor accident injury on 30.04.2017 at about 9.45 p.m., while returning home by riding the bicycle at Perambalur. The first respondent is the rider of the offending vehicle. The second respondent is the Insurance Company of the vehicle. Before the Tribunal, the claimant has made claim for compensation of Rs.10 lakhs by invoking Section 166 of the Motor Vehicles Act, 1988.

4. The Tribunal after considering the evidence placed on record, accepted the case of the claimant that he has sustained injury due to the negligent act of the rider of the first respondent thereby, the respondents are



liable to pay compensation to the injuries sustained by the claimant. The Tribunal has also quantified and awarded a sum of Rs.92,791/- as compensation.

5. Aggrieved over the quantum of compensation, this appeal has been filed by the claimant seeking enhancement of compensation.

6. Mr.J.Sourirajan, learned counsel for the appellant who was appeared through virtual mode has submitted that the claimant has sustained multiple grievous injuries on his face and also on the head. But the Tribunal has not properly appreciated this injury, awarded compensation and more particularly, it has not awarded any compensation under the head disability. He further submits that the compensation awarded under other heads are also very minimum and prays to award just compensation.

7. Mr.K.Vinod, learned counsel appearing for the Insurance Company submitted that the claimant has not adduce any evidence to prove his disability for claiming compensation under the head disability. He further submitted that the compensation awarded on all the heads are proper and no further enhancement is required. Hence prays to dismiss the claim.



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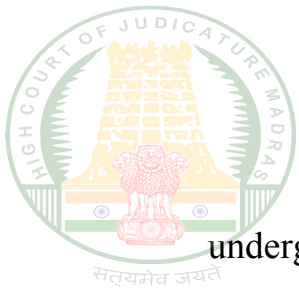
8. I have considered the rival submissions made on both sides and also perused the records available.

9. Admittedly, the claimant herein has not adduced any medical evidence to prove his disability. The Tribunal has also recorded that though the claimant was directed to appear before the medical board, he has not come forward to appear before the medical board. Since, the claimant has not come forward to subject himself for medical board or has not examined any medical evidence to prove his disability, the Tribunal has rightly not awarded compensation under the head disability. However, the Tribunal has awarded compensation on various other heads.

10. The Tribunal has recorded findings in the award that the claimant was undergone in-patient treatment from 01.05.2017 to 04.05.2017. Ex.P2- Discharge Summary issued by the Kauvery Hospital shows that the claimant has sustained following injuries:

*“Left temporal EDH with pneumocephalus
SDH left temporo parietal region with mass effect
Fracture left temporo parietal bone, lateral wall of left orbit
and greater wing of sphenoid bone on left side.
Fracture left maxillary sinus with ? Fracture hard palate.”*

11. The Discharge summary also shows that the claimant has



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undergone surgeries for the above injuries. Considering the above injuries, I am of the view that the claimant is entitled for compensation under the head loss of income during the period of disablement i.e., the period of treatment. I have awarded one month income as the eligible compensation under the head loss of income during the treatment period and considering the date of accident, notionally, I have fixed a sum of Rs.13,000/- as the monthly income of the claimant and accordingly a sum of Rs.13,000/- awarded under the head loss of income during treatment period.

12. The Tribunal has awarded a sum of Rs.20,000/- under the head pain and sufferings and this Court finds the same required to be enhanced and the same is modified to Rs.30,000/-. Similarly, the compensation of Rs.4,000/- awarded under the head extra nourishment is also very meagre and the same is modified to Rs.10,000/-. The compensation of Rs.1,000/- awarded under the head Transport expenses is also modified to Rs.5,000/-.

13. Accordingly, the award passed by the Tribunal under various heads are hereby modified as follows:

S. No	Description	Amount awarded by	Amount awarded by	Award confirmed or
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		Tribunal (Rs)	this Court (Rs)	enhanced or reduced
1.	Pain and Sufferings	Rs.20,000/-	Rs.30,000/-	Enhanced
2.	Extra Nourishment	Rs.4,000/-	Rs.10,000/-	Enhanced
3.	Transportation Expenses	Rs.1,000/-	Rs.5,000/-	Enhanced
4.	Medical Expenses	Rs.67,791/-	Rs.67,791/-	Enhanced
5.	Loss of Income during Treatment Period	---	Rs.13,000/-	Granted
	Total Compensation	Rs.92,791/-	Rs.1,25,791/-	Enhanced to Rs.33,000/-

14. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.92,791/- is hereby enhanced to Rs.1,25,791/- [Rupees One Lakh Twenty Five Thousand Seven Hundred and Ninety One only] together with interest at the rate of 7.5% per annum from the date of filing of Claim Petition till the date of deposit, excluding the default period, if any. The Insurance Company is directed to deposit the amount now awarded by this Court 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.54 of 2018 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Perambalur. On such deposit, the appellant is permitted to withdraw the amount now determined by this Court along with interest and costs, less



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the amount already withdrawn, if any. The Tribunal shall disburse the amount now awarded by this Court by crediting in to the Savings Bank Account of the claimant. Since this Court has enhanced the compensation, the appellant/claimant is directed to pay the necessary Court fee, if any, on the enhanced compensation. In other aspects, the award of the Tribunal shall stand confirmed. There shall be no order as to costs in the present appeal.

02.01.2025

ssi

Index: Yes/No

Speaking Order: Yes/No

Neutral Citation Case: Yes/No

To:

1. The Subordinate Judge,
Motor Accident Claims Tribunal,
Perambalur
2. The Section Officer,
V.R.Section,
High Court of Madras.

K. RAJASEKAR., J.

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