



C.M.A.No.1698 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **04-06-2025**

CORAM

THE HONOURABLE MRS JUSTICE T.V.THAMILSELVI

Civil Miscellaneous Appeal No. 1698 of 2023

A.Jayagopi

...Appellant

Versus

1. Srinivasan
2. United India Insurance Company Limited
Motor III Party Claims Office,
Shillingi Building,
No.134, Greams Rod,
Chennai-600 006.

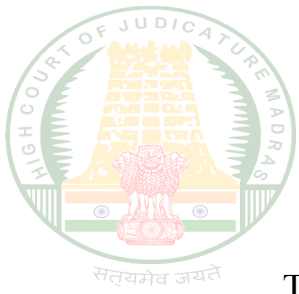
...Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the Judgment and Decree made in M.C.O.P.No. 1769 of 2017, dated 01.10.2019 by the Motor Accident Claims Tribunal, Chennai, on the file of Special Judge-II, Court of Small Causes, Chennai.

For Appellant : Mr.F.Terry Chella Raja
For Respondent-2 : Ms.V.Pushpa
For Respondent-1 : Ex-parte before the Tribunal

JUDGMENT

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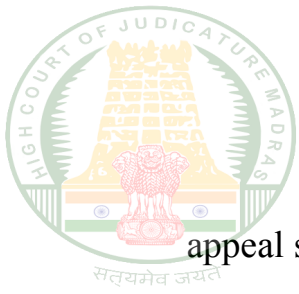
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The Civil Miscellaneous Appeal is filed for enhancement of compensation granted by the Tribunal in the Judgment and Decree made in M.C.O.P.No.1769 of 2017, dated 01.10.2019 by the Motor Accident Claims Tribunal, Chennai, on the file of the Special Judge-II, Court of Small Causes, Chennai.

2.The appellant is the claimant in M.C.O.P.No. 1769 of 2017 on the file of Special Judge-II, Court of Small Causes, Chennai. He filed the said claim petition claiming a sum of Rs.40,00,000/- as compensation for the injuries sustained by him in the accident that took place on 26.12.2016.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the Two Wheeler bearing Registration No. TN-43-C-0297 belonging to the 1st respondent and directed the 2nd respondent/Insurance Company, being the Insurer of the said vehicle, to pay a sum of Rs.40,00,000/- as compensation to the appellant. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present

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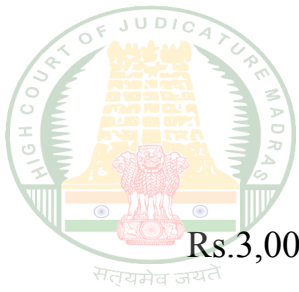


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appeal seeking enhancement of compensation.

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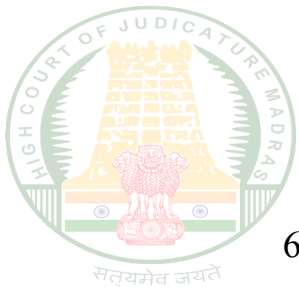
4.The learned counsel appearing for the appellant contended that due to the accident, the appellant sustained grievous injuries. PW1 had clearly deposed that he had sustained fracture of both bones in right leg and fracture of both bones in left and other multiple injuries all over the body. He was admitted as inpatient in KMC Hospital from 26.12.2016 to 18.02.2016 for 55 days. The panel of doctors of the Medical Board had assessed the disability, viz., “his disability is post traumatic sequelae both lower limbs due to united fracture both bones of both legs, surgically with implant insitu and his disability percentage is 50%”. The appellant was examined by the doctor as P.W.1, who has assessed the disability of the appellant as 50% but the Claims Tribunal had reduced the disability to 30% without assigning any proper reason which is erroneous. The Tribunal ought to have adopted multiplier method while calculating compensation for future loss of earning capacity, since the appellant had suffered permanent disability. The appellant marked the disability certificate - Ex.C1 to prove the injuries. The Tribunal awarded only a meager sum of Rs.90,000/- towards permanent disability at the rate of



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Rs.3,000/- x 30% = Rs.90,000/-. Due to the injuries and disability, the appellant could not do the work as he was doing earlier. The Tribunal has not awarded any compensation towards loss of earning power.

5. The learned counsel appearing for the appellant further contended that the Tribunal ought to have fixed the disability of the appellant as 50% and ought to have awarded compensation towards loss of earning power. The appellant was earning a sum of Rs.10,000/- per month by doing Security job. The Tribunal without considering the same, fixed only a meager sum of Rs.6,500/- as monthly income of the appellant. The appellant has taken treatment as in-patient in KMC Hospital from 26.12.2016 to 18.02.2016 for 55 days and underwent surgeries. He marked the discharge summary as Ex.P3 and outpatient slip as Ex.P4 to prove the same. The Tribunal has not awarded any compensation towards attendant charges, medical expenses, future medical expenses and loss of amenities. The amounts awarded by the Tribunal under different heads are meager and therefore, prayed for enhancement of compensation.



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6. *Per contra*, the learned counsel appearing for the 2nd

respondent/Insurance Company contended that the appellant has not produced any document to prove that he was earning a sum of Rs.10,000/- per month by doing Security Job at the time of accident. In the absence of any material evidence to prove the avocation and income of the appellant, the Tribunal fixed a sum of Rs.6,500/- as monthly income of the appellant, which is not meager. The appellant has not made out any case for enhancement of compensation and therefore, prayed for dismissal of the appeal.

7. Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the 2nd respondent/Insurance Company and perused all the materials available on record.

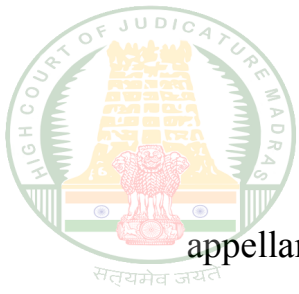
8. It is the contention of the appellant that in the accident, he had sustained fracture of both bones in right leg and fracture of both bones in left and other multiple injuries all over the body and underwent surgeries. The appellant was examined by the competent Doctor/Medical Board, who assessed the disability of the appellant as 50% and issued the disability



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certificate as Ex.C1 to prove the injuries. The Tribunal accepting the same, awarded a sum of Rs.2,00,000/- towards disability at the rate of Rs.2,000/- per percentage of disability. The appellant has not produced any document to prove that she suffered functional disability and there is loss of earning capacity. Therefore, the percentage method adopted by the Tribunal is correct. But the amount awarded by the Tribunal per percentage of disability is not correct. The accident is of the year 2016 and hence, a sum of Rs.3,000/- per percentage of disability is granted. Thus, the compensation awarded by the Tribunal towards disability is enhanced to Rs.90,000/- (Rs.3,000/- X 30%).

8(i).According to the appellant, he was earning a sum of Rs.10,000/- per month by doing Security job. He failed to prove the said contention. In the absence of any material evidence to prove the avocation and income of the appellant, the Tribunal fixed a sum of Rs.6,500/- as monthly income of the appellant and awarded a sum of Rs.40,000/- (Rs.10000 x 4) towards loss of income for four months. The accident is of the year 2016 and the monthly income fixed by the Tribunal is meager. Hence, a sum of Rs.10,000/- is fixed as monthly income of the appellant. Due to the injuries sustained by the



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appellant, he would not have attended her work at least for four months.

Thus, a sum of Rs.40,000/- (Rs.10,000/- X 4) is awarded towards loss of income for four months.

8(ii). The appellant contended that he has taken treatment as in-patient in KMC Hospital from 26.12.2016 to 18.02.2016 for 55 days and underwent surgeries. He marked the discharge summary-Ex.P3 and outpatient slip - Ex.P4 to prove the same. The Tribunal has not awarded any compensation towards attendant charges. Considering the nature of injuries and period of treatment taken by the appellant a sum of Rs.8,58,000/- [Rs.11,000/- x 12 x 13 x 50/100] is awarded towards loss of permanent disability. A sum of Rs.30,000/- awarded by the Tribunal towards pain and suffering is enhanced to Rs.50,000/- and attendant charges is Rs.30,000/- awarded by this Court. The appellant has not produced any document to show that he incurred medical expenses and he is still taking treatment. Therefore, the appellant is not entitled to any compensation towards medical expenses and future medical expenses. The compensation awarded by the Tribunal towards transport expenses and extra nourishment are just and reasonable and



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hence, the same is hereby confirmed. Thus, the compensation awarded by the

WEB C Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Disability	90,000	8,58,000	Enhanced
2.	Pain and suffering	30,000	50,000	Enhanced
3.	Transportation	20,000	20,000	Confirmed
4.	Extra nourishment	20,000	20,000	Confirmed
5.	Loss of income	40,000	40,000	Confirmed
6.	Attendant charges	-	30,000	Granted
	Total	2,00,000	10,18,000	Enhanced by Rs.8,18,000/-

9.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,00,000/- is hereby enhanced to Rs.10,18,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant is directed to pay necessary Court fee, if any, on the enhanced compensation.



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The 2nd respondent/Insurance Company is directed to deposit the enhanced award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant is permitted to withdraw the enhanced award amount along with interest and costs, less the amount if any, already withdrawn. No costs.

04.06.2025

MSM

To

1. United India Insurance Company Limited
Motor III Party Claims Office,
Shillingi Building, No.134, Greaves Road,
Chennai-600 006.
2. The Special Judge-II, Court of Small Causes, Chennai.

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T.V.THAMILSELVI, J.,

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