



CMA.No.2656 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 28.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CMA.No.2656 of 2021

Ravikumar

...Appellant

Vs.

1. Barath Kumar.S

2. ICICI Lombard General Insurance Company Ltd.,
1st Floor, No.84 & 85, Arihant Plaza,
Waltax Road, Parry's Corner,
Chennai – 3.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, as against the judgment and decree dated 19.03.2020 made in MCOP.No.1708 of 2017 on the file of the Motor Accidents Claims Tribunal (III Small Causes Court), Chennai.

For Appellant : Mr.R.Nalliyappan

For Respondents : Mr.R.Karunakaran, for R1
: Mr.B.Siva Kollappan, for R2



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JUDGEMENT

Challenging the judgment and decree dated 19.03.2020 made in MCOP.No.1708 of 2017 on the file of the Motor Accidents Claims Tribunal, (III Small Causes Court), Chennai, the claimant is before this Court.

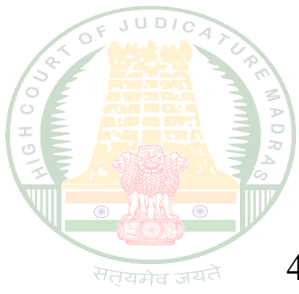
2. It is the case of the appellant/claimant that, on 05.03.2017 at about 21.00 hours, when he was standing at Vadapalani 100 Feet road, near South Sivan Koil, at that time, a motorcycle bearing Regn.No.TN-22-DD-0864 owned by the 1st respondent insured with the 2nd respondent driven by its driver came in a rash and negligent manner and dashed against the appellant/claimant, due to which the appellant sustained multiple grievous injuries and got admitted in the hospital. Thereby, the appellant filed a claim petition seeking compensation of Rs.75,00,000/-. Before the tribunal, the claimant examined himself as P.W.1 and marked exhibits P.1 to P.18 and on the side of respondents no documents were marked and no witness was examined and the Disability Certificate was marked as Court document Ex.C.1. After trial, the Tribunal, on appreciation of oral and documentary evidence, though came to a



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conclusion that the accident had taken place due to the rash and negligent driving on the part of the driver of the 1st respondent, however, awarded a meagre compensation of Rs.1,40,000/-. Challenging the same, the appellant has filed the present appeal, seeking enhancement of compensation.

3. Learned counsel appearing for the appellant submitted that, the above said accident occurred solely due to the rash and negligent driving on the part of the driver of the 1st respondent vehicle, due to which, the appellant sustained multiple fracture injuries all over his body and severe bleeding injuries and lacerated wounds all over his body and the medical board also assessed a permanent disability of 12% and accident is of the year 2017, however, the tribunal had taken only a sum of Rs.3,000/- per percentage of disability and awarded a meagre compensation under the head Disability and the compensation awarded under other heads are also on lower side and the same has to necessarily be enhanced. Accordingly, he prayed for appropriate orders.



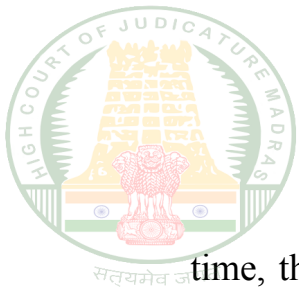
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4. Per contra, the learned counsel appearing on behalf of the respective respondents submitted that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, they prayed for dismissal of the appeal.

5. Heard the learned counsel on either side and perused the materials available on record.

6. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The major grievance of the appellant/claimant is with regard to the quantum of compensation awarded by the Tribunal. It is claimed by the appellant that though the accident is of the year 2017, however, the Tribunal had taken only a sum of Rs.3,000/- per percentage of disability. In this regard, this Court perused Ex.C.1, which is the disability certificate issued by the Medical Board and the same reveals that the appellant suffered disability of 12% and by erroneously adopting a sum of Rs.3,000/- per percentage of disability, the tribunal awarded a sum of Rs.36,000/-. However, as per the existing law at the relevant point of



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time, the Tribunal ought to have fixed a sum of Rs.7,000/- per percentage of disability. Hence, the amount under the head Disability stands enhanced to a sum of Rs.84,000 /- ($12\% \times \text{Rs.7,000/-} = \text{Rs.84,000/-}$).

7. Insofar as the compensation awarded under other heads are concerned, the tribunal had awarded a sum of Rs.25,000/- and Rs.1,800/- under the heads Pain and sufferings and Attender charges respectively, which are on the lower side and thereby, this Court is inclined to enhance the same to Rs.50,000/- and Rs.10,000/- respectively. At the same time, the tribunal had awarded a sum of Rs.10,000/- under the head Loss of Amenities, which is not sustainable and thereby, the same is rejected.

8. Insofar as the compensation awarded under the other heads are concerned, this Court is of the view that the compensation awarded under other heads are just and reasonable and the same does not requires interference of this Court.



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9. In view of the above, the compensation awarded by the Tribunal is modified as under :-

Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
Disability	36,000/-	84,000/-
Pain and sufferings	25,000/-	50,000/-
Transport & Extra Nourishment Expenses	20,000/-	20,000/-
Loss of Income	12,324/-	12,324/-
Attender charges	1,800/-	10,000/-
Medical expenses	33,286/-	33,286/-
Towards Disability/Loss of Amenities	10,000/-	-
Damages to clothes	1,500/-	1,500/-
Total	1,39,910/-	2,11,110/-
Rounded off to	1,40,000/-	

10. Accordingly, the appeal is allowed in part and the impugned award of the Tribunal is modified by enhancing the compensation amount from **Rs.1,40,000/- to Rs.2,11,110/-**. The 2nd respondent / Insurance Company is



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directed to deposit the said amount to the credit of MCOP.No.1708 of 2017 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the said amount directly to the bank account of the Appellant through RTGS within a period of two (2) weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced compensation by the appellant. It is underscored that the appellant is not entitled to any interest for the default period, if any. No Costs.

28.01.2025

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Index : Yes / No
Speaking Order : Yes / No
Neutral Citation Case : Yes / No

To

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M.DHANDAPANI, J.

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