



C.M.A.No.2673 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.2673 of 2021

Arasappan

... Appellant / Petitioner

Vs.

1.Manoharan

2.Singaravelu

3.Shriram General Insurance Company Limited,
Rep.by its Branch Manager,
Having Office at No.C-135-A, 5th Cross,
Thillai Nagar, Trichirapalli.

... Respondents / Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 04.01.2020 made in M.C.O.P.No.214 of 2014 on the file of the Motor Accidents Claims Tribunal, District Court, Karaikal.



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For Appellant : Mr.K.Varadha Kamaraj
For Respondents : R1-Dismissed
vide order dated 10.06.2024
R2-No appearance
Mrs.R.Sreevidhya for R3

J U D G M E N T

Aggrieved by the compensation awarded by the Tribunal in M.C.O.P.No.214 of 2014 filed by the claimant, the appellant/claimant has come before this Court challenging the same by filing the present civil miscellaneous appeal.

2. It is the case of the claimant that, on 29.06.2013, at about 12.10., when the claimant was riding his motorcycle with his wife, a tipper lorry belonging to the second respondent driven by the first respondent came from north to south in a rash and negligent manner and hit the claimant's motorcycle, due to which, he sustained grievous injuries. Under these circumstances, the claim petition came to be filed by the claimant



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seeking compensation before the Tribunal against the respondents.

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3. Before the Tribunal, on the side of the claimant, P.W.1 was examined and Exs.P1 to P10 were marked. On the side of the respondents, no witness was examined and no document was marked. The Tribunal, after analyzing the oral and documentary evidence available on record, awarded a compensation of Rs.1,92,350/- and directed the third respondent / Insurance Company to pay the same to the appellant / claimant.

4. The learned counsel appearing for the appellant submitted that the appellant has suffered fracture of both bones on right leg, however, the Tribunal has awarded only a sum of Rs.25,000/- towards pain and sufferings and the appellant has taken treatment as in-patient for few days, however, the Tribunal has not awarded any compensation under the head 'loss of income during the treatment period' and the compensation awarded by the Tribunal under the heads 'attender charges' and 'extra nourishment' is also on the lower side. Hence, he prays for enhancement of compensation.



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5. The first and second respondents remained ex-parte before the Tribunal.

6. Per contra, the learned counsel appearing for the third respondent / Insurance Company submitted that, the Tribunal taking into consideration all the relevant documents has rightly fixed the compensation, which does not require any interference. However, a sum of Rs.25,000/- awarded towards loss of convenience is not reasonable and hence, the same may be deleted.

7. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.



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8. The factum of the accident is not disputed by the parties and so also the liability. Therefore, this Court is not entering into the said aspect. The only grievance of the claimant is with regard to the quantum of compensation awarded.

9. In the instant case, the appellant has suffered fracture of both bones on the right leg and sustained 28% disability. However, the Tribunal has awarded only a sum of Rs.25,000/- towards pain and sufferings which is on the lower side and the same is enhanced to Rs.40,000/-. The appellant has taken treatment as in-patient for nine days (i.e.,) from 29.06.2013 to 07.07.2013 and therefore, he would not have attended his work atleast for a period of one month. However, the Tribunal has not awarded any compensation under the head 'loss of income during the treatment period' and hence, a sum of Rs.30,000/- is awarded under the head 'loss of income during the treatment period'. Insofar as compensation awarded under the



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heads 'attender charges' and 'extra nourishment' is concerned, the same is on the lower side and it is enhanced to Rs.20,000/- and Rs.30,000/- respectively. Further, this Court finds that there is no ground to award a sum of Rs.25,000/- towards loss of convenience and the same is hereby set aside.

10. Considering the nature of injuries sustained by the appellant, this Court finds that the compensation awarded under the heads 'Partial Permanent Disability', 'Medical Expenses', and 'Transport to Hospital' is just and reasonable and does not require any interference.

11. In the above circumstances, the compensation awarded by the Tribunal under the below mentioned heads is modified as under:

<i>S.No</i>	<i>Head of Compensation</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
1	Partial permanent	Rs.84,000/-	Rs.84,000/-



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<i>S.No</i>	<i>Head of Compensation</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
	disability		
2	Pain and Sufferings	Rs.25,000/-	Rs.40,000/-
3	Loss of Convenience	Rs.25,000/-	-
4.	Medical Expenses	Rs.35,000/-	Rs.35,000/-
5	Attendance Charges	Rs.1,350/-	Rs.20,000/-
6	Extra Nourishment	Rs.10,000/-	Rs.30,000/-
7	Transport to Hospital	Rs.12,000/-	Rs.12,000/-
8	Loss of income during the treatment period	-	Rs.30,000/-
	Total	Rs.1,92,350/-	Rs.2,51,000/-

12. In the result, this civil miscellaneous appeal is allowed in part and the compensation awarded by the Tribunal at Rs.1,92,350/- is hereby enhanced to Rs.2,51,000/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. The third respondent / Insurance Company is directed to deposit the entire award amount now determined by this Court along with interest and costs, less the



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amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.214 of 2014 on the file of the Motor Accidents Claims Tribunal, District Court, Karaikal. On such deposit, the appellant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn, by making proper application before the Tribunal. No costs.

23.01.2025

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No
ssb

To

1. The Motor Accidents Claims Tribunal,
District Court, Karaikal
2. The Section Officer,
V.R. Section,
High Court, Chennai.



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M.DHANDAPANI, J.

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