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C.M.A.No.3572 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.3572 of 2024

R.Elanjothi

... Appellant/Petitioner

Vs.

1. Srinivasan Kumar

2. Bharti AXA General Insurance Co.Ltd.,
Metro Plaza, II Floor, No.162, Anna Salai,
Chennai – 600 002.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the order in M.C.O.P.No.2059 of 2021 dated 04.07.2024 on the file of the Motor Accident Claims Tribunal / III Court of Small Causes, Chennai.

For Appellant : Mrs.Ramya.V.Rao

For Respondents : Mr.P.Suresh Srinivasan for
R2

JUDGMENT

The above appeal is filed by the petitioner/claimant seeking to set



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aside the Judgment and Decree dated 04.07.2024 passed in M.C.O.P.No.2059 of 2021 by the Motor Accident Claims Tribunal / III Court of Small Causes, Chennai.

2. In view of the order being passed, notice to the first respondent is dispensed with.

3. It is the case of the appellant / claimant that, on 11.04.2021 at about 6.00 a.m., when the appellant was riding his motor cycle bearing Regn.No.TN 13 3530, at that time a car bearing Regn.No.TN 05 BP 6166 XUV 500 belonging to the first respondent driven by its driver came in a rash and negligent manner and dashed the vehicle in which the appellant was riding, thereby, the appellant sustained grievous injuries. Therefore, the appellant had filed a claim petition claiming a sum of Rs.5,00,000/- for the injuries sustained by him in the said accident.

4. Before the Tribunal, the appellant had examined himself as P.W.1 and marked Exhibits P.1 to Ex.P.17. On the side of the respondents, they have neither examined any witnesses nor marked any



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document. After adjudication, the Tribunal awarded a sum of Rs.1,80,600/- as compensation to the appellant. Not satisfied with the same, the appellant has preferred the present appeal seeking enhancement.

5. The learned counsel appearing for the appellant submitted that, admittedly, the above said accident occurred solely due to the rash and negligent driving of the driver of the 1st respondent's car, due to which, the appellant sustained grievous injuries all over his body and the medical board assessed a permanent disability of 21%. Though the accident is of the year 2021, the tribunal had taken only a sum of Rs.5,000/- per percentage instead of Rs.9,000/-, which is not sustainable and the compensation awarded under the other heads are also on lower side and the same has to necessarily be enhanced. Accordingly, he prayed for appropriate orders.

6. The learned counsel appearing for the second respondent submitted that, after taking into consideration the injury suffered by the claimant, the Tribunal has rightly awarded the compensation of



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Rs.1,80,600/-, which does not require any enhancement. Further, he submits that the other heads awarded by the Tribunal below is just and reasonable for the injuries sustained by the claimant. Accordingly, he prays for dismissal of the appeal.

7. Heard the learned counsel appearing for the appellant and the learned counsel appearing on behalf of the second respondent and perused the materials available on record.

8. 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 grievances 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 2021, however, the Tribunal had taken had erroneously taken a sum of Rs.5,000/- 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 21% and by erroneously adopting a sum of Rs.5,000/- per percentage of disability, the tribunal awarded a



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sum of Rs.1,05,000/- under the head disability. However, as per the existing law at the relevant point of time, the Tribunal ought to have fixed a sum of Rs.9,000/- per percentage of disability. Hence, the amount under the head Disability stands enhanced to a sum of Rs.1,89,000/- ($21\% \times \text{Rs.9,000/-} = \text{Rs.1,89,000/-}$).

9. Further, a sum of Rs.20,000/-, Rs.4,000/-, Rs.10,000/-, Rs.6,600/- and Rs.10,355/- have been awarded under the heads Pain and sufferings, Transportation, Extra nourishment, Attender charges and Loss of earnings respectively which are on the lower side and the same are enhanced to a sum of Rs.75,000/-, Rs.10,000/-, Rs.25,000/-, Rs.10,000/- and Rs.30,000/- respectively; a sum of Rs.10,000/- has been granted under the head Loss of amenities, which is not sustainable. Hence the same is rejected. Insofar as the award under the other heads are concerned, the same is just and reasonable which does not require any interference.

10. In view of the above, this Court is inclined to pass the following award:-



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<i>S.No.</i>	<i>Description</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
1	Disability	1,05,000/-	1,89,000/-
2	Pain and sufferings	20,000/-	75,000/-
3	Transportation	4,000/-	10,000/-
4	Medical Expenses	13,628/-	13,628/-
5	Extra nourishment	10,000/-	25,000/-
6	Attender charges	6,600/-	10,000/-
7	Damages to clothes	1,000/-	1,000/-
8	Loss of amenities	10,000/-	-
9	Loss of earnings	10,355/-	30,000/-
	Total	1,80,583	3,53,628/-
	Rounded off	1,80,600/-	3,53,600/-

11. Accordingly, this appeal is partly allowed and the compensation amount by the Tribunal is enhanced from Rs.1,80,600/- to **Rs.3,53,600/-**. The second respondent/insurance company is directed to deposit the compensation amount, awarded by this Court above, to the credit of M.C.O.P.No.2059 of 2021 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 six weeks (6) from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is



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directed to transfer the award amount directly to the bank account of the appellant/claimant through RTGS within a period of two weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced compensation. The appellant is directed to pay necessary additional Court fee on the enhanced compensation amount. It is underscored that the appellant is not entitled for any interest for the default period if any. There shall be no order as to costs in the present appeal.

22.01.2025

Index : Yes / No
Speaking order / Non-speaking order
Netrual Citation Case : Yes / No
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To

1. Motor Accident Claims Tribunal / III Court of Small Causes, Chennai.
2. The Section Officer, V.R.Section, High Court, Madras.



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M.DHANDAPANI, J.

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