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C.M.A.No.3504 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.3504 of 2024

P.Karuppan

... Appellant

Vs.

1.J.Joni

2.The New India Assurance Company Limited,
(Motor Third Party Cell),
Bombay Mutual Building, 6th Floor,
No.223, N.S.C. Bose Road,
Chennai – 600 001.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the order made in M.C.O.P.No.2054 of 2019 dated 22.12.2023 on the file of Motor Accident Claims Tribunal (In the V Court of Small Causes, Chennai).

For Appellant : Mr.K.Balaji

For Respondents : Mr.J.Chandran [R2]



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JUDGMENT

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The above appeal is filed by the petitioner/claimant seeking an enhancement of the compensation awarded by the Motor Accidents Claims Tribunal, V Court of Small Causes, Chennai in M.C.O.P.No.2054 of 2019.

2. The case of the appellant is that, on 07.02.2019 at about 20.30 hours, while he was crossing pedestrian cross from west to east at G.S.T. Road, opp. to Mahalaya hotel, Pallavaram, Chennai, at that time, the 1st respondent driven his motorcycle bearing Regn.No.TN-37-DB-2675, insured with the 2nd respondent, in a very rash and negligent manner endangering the public safety and hit the appellant, as a result, he sustained grievous injuries. Therefore, the appellant had filed a claim petition claiming a sum of Rs.6,00,000/- for the injuries sustained by him in the said road accident.

3. Before the Tribunal, the appellant had examined himself as P.W.1 and marked 8 documents viz., Ex.P.1 to Ex.P.8. On the side of the respondents, they have examined one Arumugarajan, Administrative



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Officer as R.W.1 and marked 3 documents viz., Ex.R.1 to Ex.R.3. Apart from that, the Medical Board Certificate of the appellant/petitioner was marked as Court Document viz., Ex.C.1. After adjudication, the Tribunal awarded a sum of Rs.1,45,500/- as compensation to the appellant. Not satisfied with the same, the appellant has preferred the present appeal seeking enhancement.

4. Learned counsel appearing for the appellant submitted that, at the relevant point of time, per percentage of disability is Rs.8,000/-, however, the Tribunal had awarded a sum of Rs.50,000/- by fixing a sum of Rs.5,000/- per percentage of disability and disability at 10%, which is not sustainable and the same requires to be re-considered by this Court. Further, the other heads awarded by the Tribunal is meagre, which requires to be enhanced. Accordingly, he prays for appropriate enhancement in favour of the appellant.

5. Learned counsel appearing for the second respondent/Insurance Company submitted that, the amount of Rs.5,000/- awarded per percentage of disability is reasonable and so also the compensation awarded under the other heads, which does not require any



enhancement. Accordingly, he prays for dismissal of the appeal.

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6. 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.

7. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The only grievance of the appellant/claimant is with regard to the quantum of compensation awarded. In this regard, this Court perused Ex.C.1, which is the disability certificate issued by the Medical Board at Government Royapettah Hospital, Chennai and the same reveals that the appellant had suffered disability of 10%. By considering the said certificate, the Tribunal, had erroneously adopted a sum of Rs.5,000/- per percentage of disability and awarded a sum of Rs.50,000/- towards disability. However, as per the existing law at the relevant point of time, the Tribunal ought to have fixed a sum of Rs.8,000/- per percentage of disability. Hence, this Court is inclined to fix a sum of Rs.8,000/- per percentage of disability. Therefore, the amount under the head of disability stands enhanced to a sum of Rs.80,000/- (10 x Rs.8,000/- = Rs.80,000/-).



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8. Further, the Tribunal had awarded a sum of Rs.20,000/- towards loss of income; Rs.20,000/- towards pain and suffering; Rs.10,000/- towards mental agony; Rs.5,000/- towards transportation expenses; Rs.10,000/- towards nutrition expenses; Rs.1,000/- towards damages to clothes; Rs.9,500/- towards attender charges and Rs.20,000/- towards loss of amenities. This Court finds that the compensation awarded under the head damages to clothes is just and reasonable and the same does not require any interference. However, insofar as the compensation awarded towards loss of income, pain and suffering, transportation expenses, nutrition expenses and attender charges are concerned, this Court feels that a sum of Rs.30,000/-, Rs.75,000/-, Rs.10,000/-, Rs.30,000/- and Rs.20,000/- respectively would be just and reasonable compensation.

9. Insofar as the compensation awarded under the heads mental agony and loss of amenities, no compensation can be awarded under such head as the same is not a conventional head, which attract any compensation. Therefore, the compensation awarded under the said heads are accordingly set aside.



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

<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 (10 x Rs.8,000/-)	50,000/-	80,000/- (enhanced)
2	Medical Expenses	Nil	Nil
3	Loss of Income	20,000/-	30,000/- (enhanced)
4	Pain and Suffering	20,000/-	75,000/- (enhanced)
5	Transportation Expenses	5,000/-	10,000/- (enhanced)
6	Nutrition Expenses	10,000/-	30,000/- (enhanced)
7	Damages to Clothes	1,000/-	1,000/-
8	Attender charges	9,500/-	20,000/- (enhanced)
9	Loss of Amenities	20,000/-	---
	Total	1,45,500/-	2,46,000/-

10. Accordingly, this Civil Miscellaneous Appeal is partly allowed and the impugned award is modified, enhancing the compensation amount from **Rs.1,45,500/-** to **Rs.2,46,000/-**. The second respondent/Insurance Company is directed to deposit the compensation amount, awarded by this Court, to the credit of M.C.O.P.No.2054 of



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2019 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 weeks (4) from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellant/claimant 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. The appellant/claimant is directed to pay necessary additional Court fee on the enhanced compensation amount. There shall be no order as to costs in the present appeal.

03.01.2025

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

The Motor Accident Claims Tribunal, (In the V Court of Small Causes),
Chennai.



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M.DHANDAPANI, J.

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