



C.M.A.No.2270 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 21.01.2025

CORAM:

THE HON'BLE MR.JUSTICE **M.DHANDAPANI**

C.M.A.No.2270 of 2018

Vigneswaran

...Appellant

Vs.

1. Ramakrishnan

2. Venkattu

3. The Divisional Manager, Divisional office,
The New India Insurance Co. Ltd.,
Mettur Road, Erode – 638 301.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, seeking enhancement of the award in the judgment and decree dated 04.11.2017 passed in MCOP.No.455 of 2016 on the file of the MACT/IV-Additional District Court, Bhavani at Erode District.

For Appellant : Mr.Ma.P.Thangavel

For Respondents : Notice dispensed with, for R1 & R2
: Mrs.S.R.Sumathi, for R3



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JUDGMENT

WEB COPY Challenging the judgment and decree dated 04.11.2017 passed in MCOP.No.455 of 2016 on the file of theMACT/IV-Additional District Court, Bhavani at Erode District, the claimant has come up with this appeal.

2. The case of the appellant is that, on 15.04.2016 at about 08.30 pm., when the appellant was riding the Hero Honda Motor cycle bearing Regn.No.TN-36-S-8408 along with one Naveen as a pillion rider in Bhavani to Erode road, at that time, a Lorry bearing Regn.No.TN-56-2387 owned by the 2nd respondent insured with the 3rd respondent which was driven by the 1st respondent in a rash and negligent manner came from the opposite direction and dashed against the above said motorcycle, due to which, the appellant sustained grievous injuries and got admitted in the hospital. Thereby, the appellant filed a claim petition claiming a compensation of Rs.20,00,000/-. Before the tribunal, the claimant examined four witnesses viz., P.W.1 to P.W.4 and marked exhibits P.1 to P.25 and X.1 to X.3 and on the side of respondents, no documents were marked and no witness was examined and the Disability Certificate was marked as Court document



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Ex.C.1. After trial, the Tribunal, on appreciation of oral and documentary evidence, though came to a conclusion that the accident had taken place due to the rash and negligent driving on the part of the 1st respondent, however, awarded a meagre compensation of Rs.19,23,100/-. Challenging the same, the appellant has filed the present appeal seeking enhancement of the compensation fixed.

3. Learned counsel for the appellant submitted that, the above said accident happened solely due to the rash and negligent driving of the 1st respondent and at the time of accident, the appellant was only aged about 22 years and was studying 2nd year B.Sc., and due to the injuries sustained by the appellant, he sustained 60% functional disability and the same is evident from Ex.C.1, the Disability certificate issued by the Medical Board and due to the injuries sustained by the appellant in the above said accident, the appellant is unable to carry on his day to day work without the help of another person. By considering the above said facts, though the tribunal, had rightly adopted multiplier method, however, fixed the monthly income of the appellant as Rs.6,000/-, which is very meagre and the compensation



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awarded by the tribunal under other heads are also on the lower side and the same has to necessarily be enhanced.

4. Per contra, the learned counsel appearing for the 3rd respondent submitted that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prayed for dismissal of the appeal.

5. Heard the learned counsel for the appellant as well as the 3rd respondent 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 only grievance of the appellant/claimant is with regard to the quantum of compensation awarded. It is claimed by the appellant that due to the above said accident, the appellant sustained functional disability at the rate of 60%, however, the tribunal fixed the notional income of the appellant at Rs.6,000/-, which is very meagre and the tribunal failed to add 40% towards



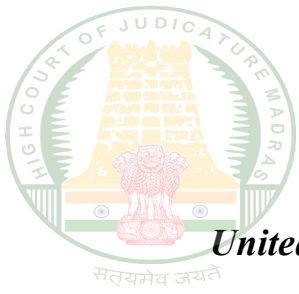
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future prospects and thereby, the impugned award has to necessarily be

interfered with.

7. A perusal of the impugned award, particularly the disability certificate reveals that, the appellant was aged about 22 years at the time of accident and was studying 2nd year B.Sc., and the nature of injuries sustained by him is of grievous in nature, and that the extent of the disability sustained by the appellant would really hamper the appellant from discharging his work. Hence, this Court while confirming the multiplier method adopted by the tribunal to arrive at the compensation under the head Disability, is of the view that the notional income of the appellant fixed at Rs.6,000/- by the tribunal is on the lower side and necessarily the same has to be enhanced.

8. It has been the view of the courts that even a housewife is entitled to monthly income to be fixed for the purpose of qualifying their work for the purpose of quantifying the amount receivable by them. Applying the ratio laid down by the Hon'ble Supreme Court in the case of *Syed Sadiq Vs.*

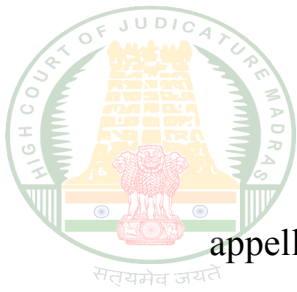


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United India Insurance Company reported in 2014 (1) TANMAC 459,

fixing a notional income of Rs.10,000/- and adding future prospects at 40%, as has been held by the Constitution Bench in the case of ***National Insurance Company Limited Vs. Pranay sethi and others reported in 2017 (16) Supreme Court Cases 680***, the total income per month is quantified at Rs.14,000/-. The appellant being aged about 22 years, as evidenced from the records, adopting the multiplier of 18 as fixed by the Apex Court in the case of ***Sarla Verma and Ors. v. DTC & Ors. reported in (2009) 6 SCC 121***, the loss of income to the family is arrived at Rs.14,000/- * 12 * 18 * 60% = Rs.18,14,400/-.

9. Insofar as the compensation awarded under the other heads are concerned, the tribunal awarded a sum of Rs.10,000/- has been awarded under the head Extra nourishment, which is meagre and thereby, the same is enhanced to Rs.20,000/- and no compensation has been awarded under the heads Attender charges and Damages to clothes, and therefore, this Court awards a sum of Rs.20,000/- and Rs.1,000/- respectively under the said heads. At the same time, a sum of Rs.50,000/- has been granted to the



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appellant under the head of "loss of amenities and marriage prospect",

which is not sustainable and the same has to be removed.

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

Heads	Awarded by the Tribunal (in Rs.)	Awarded by this Court (in Rs.)
Disability	7,77,600/-	18,14,400/-
Pain and suffering	50,000/-	50,000/-
Medical Bills	10,10,500/-	10,10,500/-
Extra nourishment	10,000/-	20,000/-
Transportation	25,000/-	25,000/-
Loss of amenities and marriage prospects	50,000/-	-
Attender charges	-	20,000/-
Damages to clothes	-	1,000/-
Total	19,23,100/-	29,40,900/-

11. Accordingly, the appeal is allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.19,23,100/- to Rs.29,40,900/-**. The 3rd respondent-Insurance Company is directed to deposit the above said amount awarded by this Court to the



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credit of MCOP.No.455 of 2016 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 (6) 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 necessary proof for payment of court fee for the enhanced compensation by the tribunal. It is underscored that the appellant is not entitled to any interest for the default period, if any. No costs.

21.01.2025

skt

NCC : Yes/No
Index : Yes/No
Speaking order : Yes/No

To:

1. The MACT/IV-Additional District Court,
Bhavani at Erode District.
2. The Section Officer,
V.R.Section, High Court, Madras.

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