



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A. (MD) No.770 of 2018

Dineshkumar

... Appellant/Claimant

Vs.

1.Arunachalam

2.The Divisional Manager,
New India Assurance Company Ltd.,
Market Road,
Thanjavur.

... Respondents/Respondents

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow the appeal by enhancing the compensation in M.C.O.P.No.855 of 2017, dated 20.12.2017 on the file of the Motor Accident Claims Tribunal/Special Sub Court, Thanjavur.

For Appellant : Mr. G.Karnan

For R2 : Mr.A.Ilango

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JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant-claimant against the award, dated 20.12.2017, made in M.C.O.P.No.855 of 2017, passed by the Motor Accident Claims Tribunal/Special Sub Court, Thanjavur.

2.The appellant/claimant filed a claim petition in M.C.O.P.No.855 of 2017, before the Motor Accident Claims Tribunal/Special Sub Court, Thanjavur, claiming compensation of Rs.10,00,000/- (Rupees Ten Lakhs only) for the injuries suffered by him, in the accident that occurred on 15.05.2017.

3.Facts of the Case:

According to the appellant/claimant, while he was riding a two-wheeler bearing Registration No.TN-49-BD-3895 near Paalathali Idumpan Kovil at Peravoorani to Pattukkottai main road and at that time, a car bearing Registration number TN-50-R-8570 belonging to the first respondent insured with the second respondent, driven by its driver in a rash and negligent manner, dashed against the two-wheeler. Due to that, the claimant sustained multiple injuries all over the body. He was taking treatment in the Vinothakan Hospital, Thanjavur, from 15.05.2017 to 24.05.2017 as inpatient. The accident took place only due to the rash and negligent driving by the driver of the Car belonging to the first respondent. Therefore, he claimed a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) as compensation for the injuries sustained by him.



4. The respondents filed separate counter statements and denied all averments made by the appellant in the claim petition. According to the respondents, the accident did not occur due to the rash and negligent driving by the driver of the first respondent, but only due to the rash and negligent driving on the part of the rider of the motorcycle.

5. Before the Tribunal, the appellant/claimant examined himself as P.W.1 and one Dr. Rathinasabapathi was examined as P.W.2 and marked 17 documents as Exs. P.1 to P.17. The respondents did not let in any oral and documentary evidence.

6. The Tribunal, considering the pleadings, oral and documentary evidence, came to the conclusion that the accident occurred only due to the rash and negligent driving by driver of the Car belonging to the first respondent and considering the nature of the injuries, awarded a sum of Rs.2,96,000/- as compensation.

7. Aggrieved against the said award, dated 20.12.2017, the appellant/claimant has filed the present appeal for enhancement of compensation.

8. The learned Counsel appearing for the appellant/claimant contended that the compensation awarded by the Tribunal for the injuries sustained by the appellant/claimant is very meagre and therefore, the appellant/claimant is entitled to future medical expenses. The amounts awarded under other heads are very meagre and therefore, he prays for enhancement of the compensation.

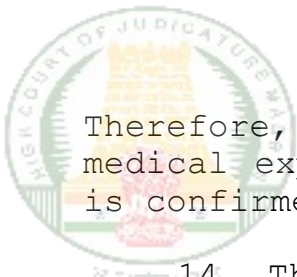
9. On the other hand, the learned Counsel appearing for the second respondent/Insurance Company submitted that the Tribunal considering the nature of the injuries sustained by the appellant/claimant and the treatment taken by him, has awarded just compensation and hence, he prays for the dismissal of this Civil Miscellaneous Appeal.

10. I have heard the learned Counsel appearing for the appellant/claimant and the second respondent and perused the materials available on record.

11. Considering the nature of the injuries suffered by the appellant, the amount granted towards pain and suffering is enhanced to Rs.50,000/- from Rs. 25,000/-.

12. The learned counsel appearing for the appellant submitted that due to the injuries sustained by the appellant, he could not sit and to do the work as done by him before the accident and hence, the amount awarded by the Tribunal towards loss of amenities is enhanced to Rs.40,000/- from 20,000/-.

13. The appellant examined the Doctor as P.W.2 and he has deposited that the appellant has to taken further treatment and the Tribunal has not granted any amount towards future medical expenses.



Therefore, this Court awards a sum of Rs.50,000/- towards future medical expenses. In all other respects, the award of the Tribunal is confirmed.

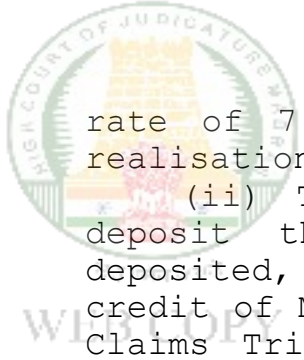
14. The rate of interest awarded by the Tribunal at 7.5% per annum is confirmed.

15. In view of the settled position of law, this Court modifies the award of the Tribunal by enhancing the compensation, as under:-

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For Permanent disability	1,32,000	1,32,000	confirmed
2.	For Pain and suffering	25,000	50,000	enhanced
3.	Nature of injuries	20,000	40,000	enhanced
4.	For Medical expenses	48,968	48,968	confirmed
5.	For extra nourishment	10,000	10,000	confirmed
6.	For Transportat ion	5,000	5,000	confirmed
7.	For attendant charges	5,000	5,000	confirmed
8.	For loss of income	50,000	50,000	confirmed
9.	For future medical expenses	-	50,000	awarded
	Total	Rs.2,95,968/- rounded off to Rs.2,96,000/-	Rs.3,90,968 rounded off to Rs.3,91,000/-	By enhancing a sum of Rs.95,000/-

16. In the result,

(i) This Civil Miscellaneous Appeal is partly allowed, enhancing the award of the Tribunal from Rs.2,96,000/- (Rupees Two Lakhs Ninety Six Thousand only) to a sum of Rs.3,91,000/- (Rupees Three Lakhs Ninety One Thousand only) along with interest at the



rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs;

(ii) The second respondent Insurance Company is directed to deposit the enhanced award amount, less the amount already deposited, if any, along with accrued interest and costs to the credit of M.C.O.P.No.855 of 2017, on the file of the Motor Accident Claims Tribunal/Special Sub Court, Thanjavur, within a period of eight weeks from the date of receipt of copy of this judgment;

(iii) The appellant-claimant is directed to pay the additional Court Fees, if any, within a period of two weeks from the date of receipt of a copy of this judgment;

(iv) On such deposit being made, the claimant is entitled to withdraw the enhanced award amount, less the amount already withdrawn, if any, with interest by making necessary application before the Tribunal. No costs.

Sd/

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar (CS-II)

To

The Motor Accident Claims Tribunal,
Special Sub Court,
Thanjavur.

+1cc to Mr.G.KARNAN, Advocate, SR.No. 83439

+1cc to Mr.A.ILANGO, Advocate, SR.No. 84216

C.M.A. (MD) No.770 of 2018
11.09.2018

AM

KK/SV/SAR-2/12.10.2018/4P-4C