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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2020

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1672 of 2006

(Through Video Conferencing)

P.Karuppannan

... Appellant

Vs.

1.Sellappan

2.M/s. The United India Insurance Co. Ltd.,
Divisional Office, No.2,
Dr.Sankaran Road, Namakkal.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 for enhancement of the compensation amount awarded in the Judgment and Decree dated 01.09.2005 made in M.C.O.P.No.820 of 2004, on the file of the Motor Accident Claims Tribunal / Additional District Court / Fast Track Court No.3, Namakkal.

For Appellant : Mr.Suganthan for
Mr.N.Manokaran

For R2 : Mr.C.Paranthaman

J U D G M E N T

The claimant is the appellant in this Civil Miscellaneous Appeal. In this appeal, the appellant/claimant seeks for enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Namakkal in its Judgment and Decree dated 01.09.2005 in M.C.O.P.No.820 of 2004.

2. By the impugned Judgment and Decree, the Tribunal has awarded a total sum of Rs.5,75,000/- as compensation together with interest at 7.5% p.a from the date of claim petition till the date of deposit, to the appellant/claimant.

3. The appellant/claimant met with an accident on 14.01.2004 when he was riding TVS 50 XL bearing registration No.TN.28-E-0116, when the minibus insured with the 2nd respondent bearing



registration No.TN-28-B-4677 came from opposite direction and knocked him down. The appellant/claimant was grievously injured all over his body and sustained multiple injuries including compound fracture of his right hand, right leg, hip.

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4. A Part of appellant's liver was also removed, as a result of which, he has permanent disability and will suffer from indigestion all through his life and is incapable of carrying on normal activities. The appellant/claimant had let in evidence through PW 2 physician who assessed the permanent disability of the appellant as 60%. The Tribunal has however fixed 50% disability and has awarded a sum of Rs.2,88,000/- as compensation.

5. I have heard the learned counsel for the appellant/claimant and the 2nd respondent Insurance Company.

6. Considering the nature of injuries suffered by the appellant/claimant, the amount awarded by the Tribunal requires to be enhanced. The Tribunal has not considered all of the medical bills. Learned counsel for the appellant/claimant has also explained discrepancy. Learned counsel for the 2nd respondent Insurance Company has also confirmed the position.

7. Similarly, the amount awarded towards pain and suffering and towards extra nutrition and transport charges are meagre. They are accordingly enhanced. An amount of Rs.2,88,000/- [24,000 x 12] awarded towards disability and loss of income is not in accordance with the decision of the Hon'ble Supreme Court in Raj Kumar Vs. Ajay Kumar and Another, (2011) 1 SCC 343. It has to be reduced to Rs.1,20,000/-.

8. At the same time, the Tribunal has not awarded amounts under other conventional heads and therefore, they are to be awarded to the appellant/claimant. The nature of injuries internal suffered requires lifelong medical treatment and medical expenditure. Therefore, I am inclined to award a further sum of Rs.1,00,000/- towards future medical expenses.

9. During the treatment of hospitalisation, the appellant/claimant has also lost the income. The same is calculated at 60% disability. Accordingly, the appellant/claimant is entitled for a sum of Rs.43,200/-. The appellant/claimant has also suffered loss due to damage to his vehicle. Though the appellant/claimant seeks for an enhancement of Rs.10,000/-, it has to be restricted to only Rs.6,000/- in view of the restriction in Section 147 of the Motor Vehicle Act, 1988.



10. Under these circumstances, the compensation which has been awarded are under the 4 heads, are modified as follows:-

Heads	Amount awarded by the Tribunal	Re-quantified amount this Court	Status (Confirmed or granted or reduced or enhanced)
Medical bills	Rs.2,62,000/-	Rs.3,12,037/-	Enhanced
Pain and sufferings	Rs.15,000/-	Rs.50,000/-	Enhanced
Nutrition and Transport as amounts towards extra nourishment	Rs.10,000/-	Rs.50,000/-	Enhanced
Disability as per Ex.P15	Rs.2,88,000/-	Rs.1,20,000/-	Reduced
Loss of income for 9 months at Rs.6,000/- per month	-	Rs.54,000/-	Granted
Loss of earning capacity	-	Rs.43,200/-	Granted
Attenders charges for 3 months (3,000 x 3)	-	Rs.9,000/-	
Future medical expenses	-	Rs.1,00,000/-	Granted
Mental Agony	-	Rs.30,000/-	Granted
Vehicle Damage	-	Rs.6,000/-	Granted
Total	Rs.5,75,000/-	Rs.7,74,237/-	Enhanced by another sum of Rs.1,99,237/-

The enhanced amount of compensation of Rs.7,74,237/- is rounded off to Rs.7,75,000/- and thereby, the difference amount of compensation is rounded off to Rs.2,00,000/- (instead of Rs.1,99,237/-)

11. Therefore, the 2nd respondent Insurance Company is directed to deposit the enhanced amount of compensation of Rs.2,00,000/- (7,75,000 - 5,75,000) together with interest at 7.5% per annum from the date of claim petition till the date of such deposit, within a period of six weeks from the date of



receipt of a copy of this Judgment.

12. If the amount of compensation awarded by the Tribunal has not deposited by the 2nd respondent Insurance Company, it is also directed to deposit the same together with interest as directed by the Tribunal, less the amount already deposited if any, within the aforesaid period.

13. On such deposits, the appellant/claimant is permitted to withdraw the same together with interest accrued thereon, less the amount already withdrawn if any, by filing suitable application before the Tribunal.

14. Accordingly, this Civil Miscellaneous Appeal is allowed.
No cost.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

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To:-

1.The Motor Accident Claims Tribunal
Additional District Court / Fast Track Court No.3,
Namakkal.

2.The Section Officer
VR Section
High Court of Madras

+1 cc to M/s.N.Manokaran Advocate sr25454

C.M.A.No.1672 of 2006

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