

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2020

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.2535 of 2012

(Through Video Conferencing)

P.Arumugam Appellant/Petitioner

Vs.

1.T.Gunasekaran

2.R.Jothilakshmi

3.The Oriental Insurance Company,
Old No.29/B, New No.238,
Arcot Road, Jambubala Complex,
First Floor, Vellore,
Tamil Nadu - 632 004. Respondents/Respondents

(Respondents 1 and 2 were set exparte before the Lower Court)

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 28.01.2012 made in M.C.O.P.No.608 of 2010 on the file of MACT/Principal Sub Court at Coimbatore.

For appellant : Mr.M.Lokesh for Mr.Ma.P.Thangavel

For 3rd respondent : M/s.Harini for Mr.N.Vijayaraghavan

For R1 & 2 : Exparte

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the claimant, against the impugned Judgment and Decree dated 28.01.2012 passed by the Court of Principal Subordinate Judge and Motor Accidents Claims Tribunal Judge of Coimbatore, in M.C.O.P.No.608 of 2010.

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.1,38,536/- as compensation together interest at 7.5% from 01.06.2010 till the date of realisation and cost, to the appellant/claimant for injury suffered by him.

3. Aggrieved by the same, the appellant/claimant has filed this appeal for an enhancement of compensation on account of the injury suffered by him in the accident that occurred on 23.06.2010.

4. The accident is said to have taken place when the appellant/claimant was riding his motorcycle bearing registration No.TNC-10, on the Ponnandampalayam to Sedapalayam Road, near corner of the said road, when a lorry bearing registration No.TN-23-AD-2799, belonging to the 2nd respondent insured with the 3rd respondent allegedly driven by the 1st respondent driver in a rash and negligent manner hit the said motorcycle even though the appellant/claimant had stopped his motorcycle to avoid accident after seeing the lorry coming from the opposite direction rashly and negligently. The 1st respondent sustained severe injuries as a result of the accident and was admitted in the hospital. A criminal case was registered against the 1st respondent driver of the insured lorry.

5. Therefore, the appellant/claimant filed a claim petition. After considering the evidence on record and considering the nature of injury suffered by the appellant/claimant, the Tribunal has awarded the amount of compensation of Rs.1,38,536/-. In this appeal, the appellant seeks for enhancement of compensation.

6. I have considered the arguments advanced by the learned counsel for the appellant and the learned counsel for the 3rd respondent Insurance Company. I have also perused the evidence on record and the impugned Judgment and Decree passed by the Tribunal.

7. I find that the Tribunal has not awarded just compensation to the appellant/claimant considering the nature of injury suffered by him. Therefore, to award a just compensation, the compensation awarded by the Tribunal is re-quantified as follows:- सत्यमेव जयते

Heads	Compensation awarded by the Tribunal	Compensation re-quantified by this Court	Status (Enhanced or reduced or confirmed or granted)
Disability	*Rs.58,000/-	#Rs.87,000/-	Enhanced
Loss of earning	**Rs. 4,000/-	##Rs.30,000/-	Enhanced
Pain and Sufferings	Rs.10,000/-	Rs.15,000/-	Enhanced
Transport	Rs. 3,000/-	Rs. 5,000/-	Enhanced
Nourishment	Rs. 5,000/-	Rs. 5,000/-	Confirmed
Attender charges	Rs. 4,000/-	Rs. 5,000/-	Enhanced

Heads	Compensation awarded by the Tribunal	Compensation re-quantified by this Court	Status (Enhanced or reduced or confirmed or granted)
Medical Bills	Rs.51,460/-	Rs.51,460/-	Confirmed
Spare Parts of vehicle as per bills	Rs. 3,076/-	Rs. 3,076/-	Confirmed
Total	Rs.1,38,536/-	Rs.2,01,536/-	Enhanced by another sum of Rs.63,000/-

* 29% x 2000 (per percentage) = 58,000/-

** 1 month x 4,000 (per month) = Rs.4000

29% x 3000 (per percentage) = 87,000/-

10 months x Rs.3,000 (per month) = 30,000/-

8. Therefore, the 3rd respondent is directed to deposit the enhanced amount of compensation of Rs.63,000/- (2,01,536 - 1,38,536) together with interest at 7.5% from 01.06.2010 till the date of such deposit, before the Tribunal, within a period of six weeks from the date of receipt of a copy of this Judgment. If the 3rd respondent Insurance Company has not deposited the compensation awarded by the Tribunal, it is also directed to deposit the same together with interest and cost as directed by the Tribunal, less the amount already deposited if any, within the aforesaid period.

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

10. Accordingly, this Civil Miscellaneous Appeal is partly allowed with the above observations. No cost.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

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To:-

The Motor Accidents Claims Tribunal,
Principal Sub Court, Coimbatore.

Copy To
The Section Officer,
VR Section,
High Court, Madras.

C.M.A.No.2535 of 2012

PA (CO)
GMY (21/04/2021)



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