

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.01.2020

CORAM:

THE HONOURABLE Mrs Justice V.BHAVANI SUBBAROYAN

C.M.A.No.891 of 2013

Soundarajan

...Appellant/Petitioner

Vs.

1.Jinnah

2.The Divisional Manager,
United India Insurance Co. Ltd.,
No.46, Katpadi Salai,
Vellore.

(R1 set Ex-parte

before the Tribunal). ...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree of the Motor Accident Claims Tribunal (Principal Sub Court), Tiruvannamalai in M.A.C.T.O.P.No.763 of 2006 dated 27.01.2011.

For Appellant : Mrs.Subadra
for M/s.M.Malar

For Respondent-2 : Mr.N.Vijayaraghavan

For R1 : Exparte

JUDGMENT

Being dissatisfied with the award, the present appeal has been filed by the appellant/claimant for enhancement of compensation awarded in M.A.C.T.O.P.No.763 of 2006 dated 27.01.2011 by the learned Principal Subordinate Judge (MACT), Tiruvannamalai.

2.The germane facts which leads to the filing of the present appeal are as follows:

a)On 16.11.2005, at about 11.15 p.m., when the appellant was returning to his village from Tiruvannamalai in his two tyre

bullock cart, a lorry bearing registration No.IT.T.F 4242 belonging to the first respondent herein, which was insured with the second respondent, came in a rash and negligent manner and hit the bullock cart at the place opposite to Kattunallanpillai Pettran Physically Handicapped School, in which, the appellant had sustained grievous injuries and one of the bull died and the other was severely injured.

b)The Tribunal, after analysing the oral and documentary evidence, has held that the accident had occurred only due to the rash and negligent driving of the driver of the first respondent, who is the owner of the lorry and further held that since the lorry/vehicle was insured with the second respondent herein, the second respondent was duly liable to pay the compensation to the claimant.

c)The learned Principal Sub Judge, Motor Accident Claims Tribunal, Tiruvannamalai had passed the following award on 27.01.2011:-

Heads	Amount awarded
Pain & Sufferings	Rs.5,000/-
Transportation	Rs.2000/-
Extra Nourishment	Rs.2,000/-
Attendant Benefits	Rs.2000/-
Loss of bullock	Rs.14,000/-
Permanent Disability	Rs.35,000
Loss of Income	Rs.9,000/-
Expenses for repairing bullock cart	Rs.5,300/-
Total	Rs.74,300/-

Thus, directing the second respondent herein to pay the appellant a sum of Rs.74,300/- together with interest at 7.5% from the date of claim till the date of realization as compensation.

3.Aggrieved by the quantum of compensation awarded by the Tribunal, the present appeal has been filed by the appellant seeking enhancement of compensation.

4. Heard Mrs. Subadra, learned Counsel for the appellant and Mr. N. Vijayaraghavan, learned Counsel appearing on behalf of the second respondent/Insurance Company.

5. According to the learned counsel for the appellant, the Tribunal had erred in awarding the compensation under the heads of permanent disability by fixing the disability at 15% without considering the disability assessed by the doctor and also at arriving the monthly income of the appellant as Rs.3000/-. She further submitted that no amount has been awarded for medical expenses and mental agony. She further contended that only meagre amounts have been awarded towards pain and sufferings, attendant charges and transportation and the same needs enhancement. Thus, pleaded that the compensation awarded by the Tribunal warrants interference.

6. Per contra, the learned counsel appearing on behalf of the second respondent submits that the compensation awarded by the Tribunal is just and reasonable and warrants no interference.

7. This Court after having considered the materials available on record, having examined the impugned award and having heard the submissions of the respective Counsels, is of the view that the compensation awarded by the Tribunal is just and reasonable and hence, not inclined to interfere with the same. However, taking into consideration of the judgment of the Hon'ble Supreme Court in the case of National Insurance Company Limited vs. Pranay Shethi and Others reported in 2017 (6) SCC 680, this Court is of the considered opinion that the compensation has to be enhanced under the heads viz., extra nourishment, attendant benefits and pain & sufferings. Accordingly, the amount awarded by the Tribunal under the said heads are enhanced from Rs.2000/- to Rs.5000/-, Rs.2000/- to Rs.5000/- and from Rs.5000/- to Rs.10,000/- respectively. In view of the submission made by the learned counsel for the appellant in regard to medical expenses, in the absence of any medical bills, no amount can be awarded towards medical expenses. Thus, the compensation awarded by the Tribunal is enhanced to a sum of Rs.85,300/- from Rs.74,300/-. The details of the modified award amount is as follows:

Heads	Amount awarded by the Tribunal	Amount Awarded by this Court	Award confirmed or enhanced or granted
Pain & Sufferings	Rs.5,000/-	Rs.10,000/-	enhanced

Heads	Amount awarded by the Tribunal	Amount Awarded by this Court	Award confirmed or enhanced or granted
Transportation	Rs.2,000/-	Rs.2,000/-	confirmed
Extra Nourishment	Rs.2,000/-	Rs.5,000/-	enhanced
Permanent Disability	Rs.35,000	Rs.35,000/-	confirmed
Loss of Income	Rs.9,000/-	Rs.9,000/-	confirmed
Loss of bullock	Rs.14,000/-	Rs.14,000/-	confirmed
Expenses for repairing bullock cart	Rs.5,300/-	Rs.5,300/-	confirmed
Attendant Benefits	Rs.2,000/-	Rs.5,000/-	enhanced
Total	Rs.74,300/-	Rs.85,300/-	Enhanced by Rs.11,000/-

8. In the result, the Civil Miscellaneous Appeal is partly allowed and the award dated 27.01.2011, passed by the learned Principal Sub Judge (MACT), Tiruvannamalai in M.A.C.T.O.P.No.763 of 2006, is hereby enhanced from Rs.74,300/- to Rs.85,300/-. The second respondent herein is directed to deposit the enhanced amount to the credit of M.A.C.T.O.P.No.763 of 2006, on the file of the Motor Accident Claims Tribunal (Principal Sub Court) Tiruvannamalai, together with interest 7.5% per annum from the date of claim till the date of deposit within a period of one week from the date of receipt of this order. On such deposit being made, the appellant is permitted to withdraw the said sum by filing an appropriate application. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

DP

To

1.The Motor Accident Claims Tribunal,
(Principal Sub Court) Tiruvannamalai.

2.The Section Officer,
Vernacular Section,
Madras High Court.

+lcc to Mr.M.B.Gopalan, Advocate SR.4889

+lcc to Mrs.Malar, Advocate SR.4154

C.M.A.No.891 of 2013

VG II(CO)
CB(17/09/2020)



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