



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2021

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1732 of 2016

S.Saran Kumar
Minor represented by
his father & n.f. S.Sundar Raj ... Appellant

..Vs..

1.P.Mugunathan

2.National Insurance Co. Ltd.,
Motor Third Party Claims Cell,
No.751, Anna Salai, Chennai - 600 002

Now functioning at :
National Insurance Co. Ltd.,
Motor Third Party Claims - Hub,
Regina Mansion, 3rd Floor,
No.46 Moore Street,
Chennai - 600 001. ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 21.01.2016 made in MACTOP.No.3931 of 2013 on the file of the Motor Accidents Claims Tribunal, Special Sub Court No.1 to deal with MCOP cases, Chennai.

For Appellant : Ms.P.T.Salim Fathima
For R-2 : Mr.S.Vadivel
R1 - Exparte

J U D G M E N T

(This Appeal has been taken up for hearing through Video Conferencing)

This Civil Miscellaneous Appeal has been filed by the claimant seeking enhancement of compensation under the impugned award dated 21.01.2016 passed by the Special Sub Court No.1 to deal with MCOP cases, Chennai in MCOP.No.3931 of 2013.



2. Heard Ms.P.T.Salimi Fathima, learned counsel for the Appellant/claimant and Mr.S.Vadivel, learned counsel for the second respondent / Insurance Company. The first respondent has remained exparte both before the Tribunal as well as this Court.

WEB COPY

3. The Appellant/claimant unsatisfied with the quantum of compensation awarded by the Tribunal has preferred this Appeal seeking for enhancement. The details of the compensation awarded by the Tribunal to the Appellant/claimant are as follows :

Heads	Award Amount (Rs.)
Medical expenses	1,600/-
Transport expensees	9,250/-
Extra nourishment	10,000/-
Attender charges	6,000/-
Compensation for disability	60,000/-
Damages for articles	500/-
Pain and Sufferings	30,000/-
Compensation for loss of future amenities (and or loss of prospects of marriage) and loss of expectation of life	30,000/-
Total	1,47,350/-

4. The appellant/claimant has sustained the following injuries on 03.06.2013 as a result of an accident caused by the vehicle owned by the first respondent and insured with the second respondent/insurance company.

- (a) Multiple compound and comminuted fracture and degloving injury in right leg foot ankle and above ankle.
- (b) Severe injury in the skull
- (c) Internal injury in chest and abdomen
- (d) Multiple internal and external injuries all over the body.

5. The nature of the injuries sustained by the appellant / claimant has not been disputed by the 2nd respondent / Insurance Company before the Tribunal. The appellant / claimant was hospitalized between 03.06.2013 and 25.06.2013 and thereafter from 11.07.2013 to 15.07.2013. The period of hospitalization, as seen from the discharge summary which has been marked as



Exs.P4 & P5 has also not been disputed by the 2nd respondent/Insurance Company. The doctor has assessed the disability of the appellant/claimant at 25% and he has also been examined as P.W.4 before the Tribunal. However, the Tribunal has fixed the disability at 20% on its own and has awarded a disability compensation of Rs.60,000/-, calculated @ Rs.3000/- per percentage of disability for 20% disability suffered by the appellant / claimant. This Court is of the considered view that the compensation awarded by the Tribunal under some of the heads are low and it has to be enhanced.

6. For the foregoing reasons, the compensation towards medical expenses has to be enhanced to Rs.2000/- from Rs.1600/-, transportation expenses from Rs.9,250/- to Rs.10,000/-, extra nourishment from Rs.10,000/- to Rs.20,000/-, Attender charges from Rs.6,000/- to Rs.10,000/-, disability compensation at Rs.75,000/- calculated at Rs.3000/- per percentage of disability for 25% disability as assessed by the doctor instead of 20% assessed by the Tribunal, Rs.50,000/- towards Pain & Sufferings instead of Rs.30,000/- and Rs.42,000/- towards loss of amenities or loss of prospects of marriage and loss of expectation of life from Rs.30,000/-. Accordingly, the compensation awarded by the Tribunal under the impugned award is enhanced from Rs.1,47,350/- to Rs.2,09,500/- by this Court.

Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
Medical expenses	1,600/-	2,000/-
Transport expenses	9,250/-	10,000/-
Extra nourishment	10,000/-	20,000/-
Attender charges	6,000/-	10,000/-
Compensation for disability	60,000/-	75,000/-
Damages for articles	500/-	500/-
Pain and Sufferings	30,000/-	50,000/-
Compensation for loss of future amenities (and or loss of prospects of marriage) and loss of expectation of life	30,000/-	42,000/-
Total	1,47,350/-	2,09,500/-



Conclusion:

10. In the result, this appeal shall stand partly allowed. The Second Respondent Insurance Company is directed to deposit the amount awarded by this Court i.e. Rs.2,09,500/- together with interest at the rate of 7.5% per annum from the date of claim till the date of deposit and costs, after deducting the amount already deposited to the credit of MCOP.No.3931 of 2013 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to deposit the award amount in any one of the Nationalised Banks, till the minor appellant attains majority. The father of the minor Appellant is permitted to withdraw the interest accrued once in six months. The requisite Court fee, if any has to be paid by the Appellant before receiving the copy of this Judgment. No costs.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

To

1.The Special Sub Court No.1
to deal with MCOP cases,
Motor Accidents Claims Tribunal,
Chennai

Copy To

The Section Officer
V.R.Section, High Court,
Madras.

+1cc to Mr.P.T.Salim Fathima, Advocate, S.R.No.30320

+1cc to Mr.S.Vadivel, Advocate, S.R.No.30746

C.M.A.No.1732 of 2016

SS(CO)
GN(21/09/2021)