



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.792 of 2020

(Through Video Conferencing)

G.Krishnamoorthy

... Appellant

Vs.

1. S.R.M.Transport India P.Ltd.,
No.25/1080, Megha Tours and Travels,
Opp. To Malayala Manorama, Thampanoor East,
Trivandru, Kerala.
2. Reliance General Insurance Company Limited,
Rais Towers, 2nd Floor, 2nd Avenue,
2054 (Next of GRT Jewellers)
Anna Nagar, Chennai.
Pondicherry.

... Respondents

Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 05.08.2019 made in M.C.O.P.No.621 of 2013, on the file of the Motor Accidents Claims Tribunal, I Additional Sub Judge, Cuddalore.

For Appellant : Mr.S.Udayakumar

For R1 : No Appearance

For R2 : M/s.C.Bhuvanasundari

JUDGMENT

The Claimant is the appellant in this appeal and has filed this appeal for the enhancement of compensation awarded by the Motor Accident Claims Tribunal in MCOP.No.621 of 2013 dated 05.08.2019 on the file of Additional Sub Judge at Cuddalore.



2. By the impugned judgment and decree, the Tribunal has awarded a sum of Rs.3,58,322/- as compensation under the following heads:

S.No.	Heads of compensation	Amounts Awarded by the Tribunal
1.	For partial permanent disability (Rs.3,000 x 14)	Rs.42,000/-
2.	For Transport to Hospital	Rs. 10,000/-
3.	For Extra Nourishment	Rs. 10,000/-
4.	Attender's charge	Rs. 3,000/-
5.	For Pain and sufferings, mental agony	Rs. 30,000/-
6.	For Medical expenses	Rs.2,23,822/-
7.	Loss of amenities	Rs. 20,000/-
8.	Temporary loss of income (Rs.6,500 x 3)	Rs. 19,500/-
	Total	Rs.3,58,322/-

3. The learned counsel for the appellant submits that the Tribunal has awarded only a sum of Rs.3,000/- towards attender's charge and a sum of Rs.19,500/- towards loss of income which was very meager. Hence, he prays for enhancement of compensation.

4. The appellant/claimant met with an accident on 24.12.2012 at about 16.00 hours when he was riding a tractor bearing Registration No.TN.31-3505, when the bus bearing Registration No.KL-01-BH-7064 came from behind and knocked him down, as a result of which, the appellant had sustained grievous injuries. The following injuries suffered by the appellant is as follows:

- " 1. Fracture of Shaft of Mumerus left
2. Fracture of Shaft Ulna right and multiple Abrasions, scalp, face and lower back in Ex.P.15
3. Fracture of left central and lateral incisors of superior alveolar arch in Ex.P.16 and as the Ex.P.15 treatment was given to the petitioner from 25.12.2012 to 07.01.2013 for 14 days. "



5. Defending the impugned judgment and decree, the learned counsel for the 2nd respondent Insurance Company submits that the impugned judgment and decree is well reasoned and requires no interference.

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6. Heard the learned counsel for the appellant and the 2nd respondent. I have perused the impugned Judgment and decree. I have also perused the exhibits which were marked before the Tribunal.

7. As per the evidence on record the appellant is from Cuddalore. However, the appellant took treatment at Chennai in Miot hospital. Therefore, the attender's charge can be enhanced to Rs.12,000/-. The Tribunal has considered a notional income of only Rs.6,500/- based on the decision of the Hon'ble Supreme Court in Syed Sadiq Vs. United India Insurance Co. Ltd., [(2014) 2 SCC 735], wherein the Hon'ble Supreme Court held that it would be fair to conclude the notional income of Rs.6,500/- for an accident of the year 2008. The aforesaid income was considered as the notional income of a vegetable vendor.

8. Considering the fact that the accident is of the year 2012, i.e., on 24.12.2012, the temporary loss of income is re-quantified as Rs.60,000/- (Rs.10,000 x 6) for a period of six months based on the decision of the Hon'ble Supreme Court in Syed Sadiq cited supra. There shall be enhancement of compensation of Rs.12,000/- towards attender's charge. The amount of compensation awarded under the other heads are confirmed. The compensation is re-quantified as follows:-

S.No.	Heads of compensation	Amounts Awarded by the Tribunal
1.	For partial permanent disability (Rs.3,000 x14)	Rs. 42,000/-
2.	For Transport to Hospital	Rs. 10,000/-
3.	For Extra Nourishment	Rs. 10,000/-
4.	Attender's charge	Rs. 12,000/-
5.	For Pain and sufferings, mental agony	Rs. 30,000/-
6.	For Medical expenses	Rs. 2,23,822/-
7.	Loss of amenities	Rs. 20,000/-
8.	Temporary loss of income (Rs.6,000 x10)	Rs. 60,000/-



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S.No.	Heads of compensation	Amounts Awarded by the Tribunal
	Total	Rs. 4,07,822/- rounded off to Rs.4,08,000/-

9. Therefore, the 2nd respondent -Insurance Company is directed to deposit the enhanced amount of compensation of Rs.4,08,000/- together with interest at 7.5% from the date of claim petition till the date of such deposit, less any amount already deposited, to the credit of M.C.O.P.No.621 of 2013 on the file of the Motor Accident Claims Tribunal, I Additional Sub Judge, Cuddalore, less any amount already deposited, within a period of six weeks from the date of receipt of a copy of this Judgment.

10. On such deposit, the appellant /claimant is permitted to withdraw the aforesaid amount of compensation, less any amount already withdrawn, by filing suitable application before the Tribunal.

11. In the result, this Civil Miscellaneous Petition stands partly allowed. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

drl

To:

1. The Motor Accidents Claims Tribunal,
I Additional Sub Judge, Cuddalore.
2. The Section Officer,
VR Section,
High Court, Madras.

+1cc to Mr.S.Udayakumar, Advocate, S.R.No.24170

C.M.A.No.792 of 2020

RGN(CO)
SU(18/11/2021)