



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.NO.894 OF 2021

Ramasamy

... Appellant/Petitioner

Vs.

1. Chitra

2. United India Insurance Company Limited,
No.146 N, Kumar Complex, Annasalai,
Tiruchengode.

... Respondents/Respondents

PRAYER:-

This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 15.12.2020 made in M.C.O.P.No.293 of 2014, on the file of the Sub Court, (Motor Accidents Claims Tribunal), Tiruchengode.

For Appellant : Mr.T.S.Arthanareeswaran
For Mr.C.Paraneedharan

For Respondents : M/s.I.Malar (For R2)

J U D G M E N T

(The matter is heard through "Video Conferencing/Hybrid mode")

This appeal has been filed for enhancement of the compensation granted by the Tribunal in the award dated 15.12.2020 made in M.C.O.P.No.293 of 2014, on the file of the Sub Court, (Motor Accidents Claims Tribunal), Tiruchengode.

2. The appellant-claimant, filed M.C.O.P.No.293 of 2014, on the file of the Sub Court, (Motor Accidents Claims Tribunal), Tiruchengode, claiming a sum of Rs.15,00,000/- as compensation for the injuries sustained by him in the accident that took place on 30.01.2016.



3. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent riding of 1st respondent, rider-cum-owner of the Motorcycle and directed the 2nd respondent as insurer of the Motorcycle to pay a sum of Rs.5,36,500/- as compensation to the appellant at the first instance and recover the same from the 1st respondent.

4. Not being satisfied with the amounts awarded by the Tribunal in the award dated 15.12.2020 made in M.C.O.P.No.293 of 2014, the appellant has come out with the present appeal.

5. The learned counsel appearing for the appellant contended that in the accident, the appellant suffered head injury with left pubic rami fracture and has taken treatment as in-patient at Krishna Hospital, Tiruchengode in two different spells viz., from 28.01.2014 to 24.02.2014, for a period of 27 days and from 30.03.2014 to 12.04.2014, for a period of 14 days. The appellant was referred to the Medical Board. The Medical Board examined the appellant and certified that the appellant suffered 54% permanent disability. At the time of accident, the appellant was working as a Table Cleaner in a Hotel and was earning a sum of Rs.30,000/- per month. The appellant has mentioned his age as 60 years in the claim petition and filed Exs.P4 and P5, wound certificate and discharge summary to prove the same. But, in the discharge summary marked as Ex.P8, the age of the appellant has been erroneously mentioned as 73 years and it is only a typographical error. The Tribunal mechanically considering the same, fixed the age of the appellant as 73 years and awarded meagre amount as compensation. The amounts awarded by the Tribunal towards disability, pain and suffering, extra nourishment, attendant charges, medical expenses and transportation charges are meagre. The total compensation awarded by the Tribunal is meagre and prayed for enhancement of the compensation.

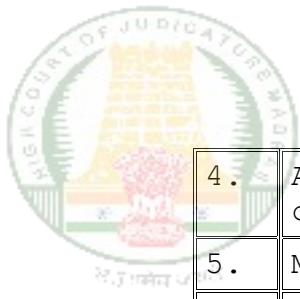
6. Per contra, the learned counsel appearing for the 2nd respondent-Insurance Company contended that the Tribunal considering the discrepancies with regard to age of the appellant in the documents marked as Exs.P4, P5 and P6, in the absence of Aadhar card produced by the appellant to prove his age, considering the discharge summary marked as Ex.P8, fixed the age of the appellant as 73 years and awarded compensation adopting multiplier method. In the absence of any proof with regard to functional disability suffered by the appellant, the Tribunal erred in adopting the multiplier method. The appellant has not made out any case for enhancement of the compensation and prayed for dismissal of the appeal.



7. Heard the learned counsel appearing for the appellant as well as the 2nd respondent-Insurance Company and perused the materials available on record.

8. It is the case of the appellant that in the accident, he sustained grievous injuries and fracture and has taken treatment as in-patient at Krishna Hospital, Tiruchengode in two different spells. The appellant was referred to the Medical Board. The Medical Board examined the appellant and certified that the appellant suffered 54% permanent disability. At the time of accident, the appellant was working as a Table Cleaner and was earning a sum of Rs.30,000/- per month. He did not file any document to prove the same. In the absence of any document by the appellant to prove the avocation and income, the Tribunal fixed a sum of Rs.6,000/- per month as notional income of the appellant. The accident is of the year 2014. Considering the year of accident and nature of work done by the appellant, the notional income fixed by the Tribunal is enhanced to Rs.10,000/- per month. The Tribunal considering the nature of injuries suffered, percentage of disability sustained and nature of work done by the appellant, rightly adopted multiplier method by fixing the age of the appellant as 73 years based on the discharge summary marked as Ex.P8, applied multiplier '5' and awarded compensation for 54% disability. Hence, by fixing the monthly income at Rs.10,000/-, applying the multiplier '5', the amounts awarded by the Tribunal towards 54% disability is enhanced to Rs.3,24,000/- [Rs.10,000/- x 12 x 5 x 54%]. Considering the nature of injuries suffered and period of treatment taken by the appellant, the amounts awarded by the Tribunal towards extra nourishment and attendant charges are meagre and hence, the same are enhanced to Rs.40,000/- each. Considering the nature of injuries and disability, this Court is of the considered view that the amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Permanent disability	1,94,400/-	3,24,000/-	Enhanced
2.	Pain and suffering	50,000/-	50,000/-	Confirmed
3.	Extra nourishment	25,000/-	40,000/-	Enhanced



WEB COPY

4.	Attendant charges	20,000/-	40,000/-	Enhanced
5.	Medical expenses	2,37,100/-	2,37,100/-	Confirmed
6.	Transportation	10,000/-	10,000/-	Confirmed
	Total	5,36,500/-	7,01,100/-	Enhanced by Rs.1,64,600/-

10. In the result, the appeal is partly allowed and the amount awarded by the Tribunal at Rs.5,36,500/- is enhanced to Rs.7,01,100/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The 2nd respondent-Insurance Company is directed to deposit the award amount, now determined by this Court, along with interest and costs, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P. No.293 of 2014 at the first instance and recover the same from the 1st respondent. On such deposit, the appellant is permitted to withdraw the award amount, now determined by this Court, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

gsa

To

1. The Subordinate Judge,
(Motor Accident Claims Tribunal), Tiruchengode.

Copy To

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

+2ccs to Mr.T.S.Arthanareeswaran, Advocate, S.R.No.19014
+1cc to Mr.T.Ravichandran, Advocate, S.R.No.19110

C.M.A.NO.894 OF 2021

VBM(CO)
CS/05/08/2021