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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2021

CORAM:

THE HONOURABLE TMT.JUSTICE S.KANNAMMAL

C.M.A.No.1251 of 2020

Ramajayam

.. Appellant/Claimant

Vs.

1.Rajadurai

(The first respondent remained exparte
before the Tribunal, Hence notice may
be dispensed with)

2.M/s. United India Insurance Company Limited,
Branch Office represented by its Branch Manager,
No.4/700-V,
Thiru Erumbeeswarar Nagar (Near Sree Sweets),
New Town Bus Stop,
Tiruchirappalli - 620 013.

3.The Managing Director,
Tamilnadu State Transport
Corporation (Kancheepuram) Limited,
Kancheepuram. .. Respondents/Respondents

(Third respondent is only formal party before
Tribunal. Hence, notice to R3 dispensed with)

Prayer: This Civil Miscellaneous Appeal is filed under Section
173 of the Motor Vehicles Act, 1988, against the Judgment and
Decree dated 24.02.2020 made in M.C.O.P.No.374 of 2017 on the
file of the Motor Accident Claims Tribunal, Chief Judicial
Magistrate's Court, Perambalur.

For Appellant : Mr.S.Kamadevan

For R2 and R3 : Mr.M.J.Vijayaraghavan

J U D G M E N T

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

This Civil Miscellaneous Appeal has been filed for
enhancement of compensation granted by the Tribunal in the award
dated 24.02.2020 made in M.C.O.P.No.374 of 2017 on the file of



the Motor Accident Claims Tribunal, Chief Judicial Magistrate's Court, Perambalur.

2.The appellant is the claimant in M.C.O.P.No.374 of 2017 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate's Court, Perambalur. He filed the above said claim petition, claiming a sum of Rs.6,00,000/- as compensation for the injuries sustained by him in the accident that took place on 09.03.2017.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the mini lorry owned by 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of Rs.1,11,000/- as compensation to the appellant and dismissed the claim petition as against the 3rd respondent-Transport Corporation.

4.Not being satisfied with the amounts awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5.The learned counsel appearing for the appellant contended that in the accident the appellant sustained grievous injuries and has taken treatment for more than 15 days in the Hospital and he is immovable after taking the treatment. Hence, the compensation awarded by the Tribunal for loss of income only for one month is very meagre. The appellant has taken future medical treatment and the Tribunal ought to have granted compensation for future medical expenses. A sum of Rs.3,000/- awarded by the Tribunal per percentage of disability is meagre. The Tribunal ought to have awarded more compensation for disability. The amounts awarded by the Tribunal towards extra nourishment and transportation, mental agony and pain and sufferings are meagre and prayed for enhancement of compensation.

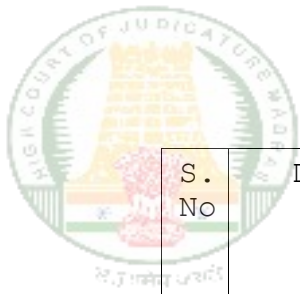
6.Per contra, the learned counsel appearing for the 2nd respondent-Insurance Company contended that the Tribunal accepted the disability certificate issued by the Medical Board, Perambalur and awarded a sum of Rs.90,000/- for 30% disability at the rate of Rs.3,000/- per percentage of disability and the same is not meagre. The appellant has not produced any document to prove his avocation and income. In the absence of any material evidence with regard to avocation and income, a sum of Rs.6,000/- per month fixed by the Tribunal as notional income of the appellant is not meagre. The appellant has taken treatment in the Hospital as inpatient for only five days and hence, the compensation awarded by the Tribunal for loss of income for one month is not meagre. The appellant failed to produce any medical records to substantiate that he requires future medical



treatment. Hence, he is not entitled for compensation towards future medical expenses. The Tribunal considering the entire materials on record, has awarded a sum of Rs.1,11,000/- as compensation to the appellant under different heads and the same is not meagre. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

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

8. From the materials available on record, it is seen that in the accident, the appellant sustained multiple grievous injuries all over the body including fracture of right humerus, left leg knee, nose, tongue, chest pain and contusions all over his body. To prove the nature of injuries and disability suffered by the appellant, he examined himself as P.W.1. and was referred to the Medical Board, Perambalur. The Medical Board, Perambalur examined the appellant and certified that appellant suffered 30% disability and issued disability certificate Ex.C1 to that effect. The Tribunal accepted the disability certificate issued by the Medical Board and awarded a sum of Rs.90,000/- for 30% disability at the rate of Rs.3,000/- per percentage of disability. The accident is of the year 2017 and a sum of Rs.3,000/- per percentage awarded by the Tribunal is meagre. Considering the year of accident, the appellant is entitled to a sum of Rs.4,000/- per percentage of disability. Thus, the compensation awarded by the Tribunal towards disability is modified to Rs.1,20,000/- (Rs.4,000/- X 30% disability). The appellant has taken treatment in the Government Hospital, Perambalur as inpatient from 09.03.2017 to 13.03.2017. It is the further case of the appellant that at the time of accident, he was aged 38 years working as Loadman of the 1st respondent's mini lorry and was earning an average of Rs.15,000/- per month. Except oral evidence, the appellant has not let in any document to prove his avocation and income. In the absence of any material evidence with regard to avocation and income, the Tribunal fixed a sum of Rs.6,000/- per month as notional income of the appellant and awarded compensation towards loss of income for one month and the same is not meagre. The appellant has not produced any medical records to show that he requires further medical treatment. Hence, he is not entitled to any amount towards future medical expenses. Considering the nature of injuries, disability and period of treatment, 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:



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S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability	90,000/-	1,20,000/-	Enhanced
2.	Pain and sufferings	5,000/-	5,000/-	Confirmed
3.	Extra nourishment and Transportation	5,000/-	5,000/-	Confirmed
4.	Mental agony	5,000/-	5,000/-	Confirmed
5.	Loss of Income	6,000/-	6,000/-	Confirmed
	Total	Rs.1,11,000/-	Rs.1,41,000/-	Enhanced by Rs.30,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,11,000/- is hereby enhanced to Rs.1,41,000/- 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, less the amount already deposited, if any, 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.374 of 2017 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate's Court, Perambalur. On such deposit, the appellant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. This Civil Miscellaneous Appeal is dismissed as against the 3rd respondent-Transport Corporation. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Perambalur.



Copy To

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

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C.M.A.No.1251 of 2020

KV (CO)
GN (18/11/2021)