



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.07.2021

CORAM

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

C.M.A. No.1341 of 2020

A.Ravi ..Appellant/Petitioner

Versus

1.Prabhu

2.Divisional Manager,

M/s.National Insurance Company Ltd.,

D.No.110 JN Street, Puducherry 605001.

..Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 13.02.2020 in MCOP.No.251 of 2016 on the file of the Motor Accidents Claims Tribunal/Chief Judicial Magistrate, Cuddalore.

For appellant	:	Ms.Ramya V. Rao
For respondents	:	
for R1	:	returned as not known
for R2	:	Mr.P.Sankaranarayanan

J U D G M E N T

The appeal is heard through video conferencing.

2. Not being satisfied with the quantum of compensation awarded by the Motor Accidents Claims Tribunal/Chief Judicial Magistrate, Cuddalore, in MCOP.No.251 of 2016, dated 13.02.2020, the present appeal has been filed by the claimant for enhancement of the compensation amount.

3. It is the case of the appellant/claimant that, on 25.11.2015 at about 15.00 hours, he was riding his TVS 50 XL Super, bearing Registration No.TN31-AH-7684 on Cuddalore to Chidambaram Main Road from South to North direction on the extreme left side of the Road. When he was nearing Sellangkuppam Sakkaralaya Motors, an Auto bearing Registration No.TN-31-AB-7303 belonging to the first respondent and insured with the second respondent, came behind him on the same side in a rash and negligent manner at high speed and dashed against him. Due to the impact, the claimant suffered fracture and multiple



grievous injuries on his head. Immediately, he was admitted as an in-patient in the Government Head Quarters Hospital, Cuddalore and took treatment.

4. It is the further case of the claimant that he was working as Coolie and earning Rs.10,000/- per month. Due to the accident, he could not continue his avocation. Hence, he made a claim for a sum of Rs.8,00,000/- as compensation.

5. The said claim petition was resisted by the Insurance Company by filing a counter statement denying the age, occupation and monthly income of the deceased. They also denied the manner of the accident as stated by the claimants in the claim petition. Thus, they sought for dismissal of the claim petition.

6. In order to prove the claim on the side of the claimants, the claimant examined himself as PW1 and marked Exs.P1 to P7. On the side of the Insurance Company, RWs.1 and 2 were examined and Exs.R1 to R3 were marked. The disability certificate issued by the Medical Board was marked as Ex.C1 (Court document). Third party exhibits were also marked as Exs.X1 to X4.

7. The Tribunal after analysing the entire evidence came to the conclusion that the accident had occurred due to the rash and negligent driving of the driver of the first respondent's Auto. By coming to such conclusion, the Tribunal passed an award for a sum of Rs.1,08,452/- and directed the second respondent/Insurance Company to pay the above compensation at first instance and thereafter, permitted to recover the same from the first respondent/owner of the Auto. The break-up details of the amounts awarded by the Tribunal under various heads are as follows:

S.No.	Heads under which amounts are awarded	Amount in Rs.
1.	For 15% Disability (15x3,000)	45,000
2.	Loss of Income (3x6,000)	18,000
3.	For Pain and Sufferings	20,000
4.	Loss of Amenities	10,000
5.	Transportation Expenses	5,000
6.	Nutrition Expenses	2,000
7.	Damages to Clothes	1,000
8.	Medical Expenses	7,452
	Total	1,08,452



8. It is the submission of the learned counsel for the appellant/claimant that the claimant was working as a Coolie and earning Rs.10,000/- per month, however, the Tribunal had taken only a very meagre amount of Rs.6,000/- as notional monthly income of the claimant and awarded an inadequate compensation of Rs.18,000/- under the head "Loss of Income". Further, as the accident had occurred in the year 2015, the Tribunal ought to have fixed at least a sum of Rs.10,000/- as notional monthly income of the claimant. Consequently, the amount awarded under such head may be enhanced.

9. The learned counsel for the second respondent/Insurance Company made his submissions supporting the award passed by the Tribunal.

10. The accident had occurred in the year 2015. Considering the cost of living prevalent at the time of the accident, the sum of Rs.6,000/- fixed by the Tribunal as the monthly income of the claimant, is extremely on the lower side, which had resulted in awarding inadequate compensation. Hence, the notional monthly income of the claimant is now fixed at Rs.10,000/-, which would meet the ends of the justice. Since the claimant could not attend any work for a period of three months, "Loss of Income" has to be calculated for three months. Thus, if a sum of Rs.10,000/- is taken as monthly income of the claimant, the "Loss of Income" comes to Rs.30,000/- (3 x 10,000). Thus, the sum of Rs.18,000/- awarded by the Tribunal under the head "Loss of Income" is hereby enhanced to Rs.30,000/-.

11. Further, the Tribunal has awarded only a sum of Rs.2,000/- under the head "Nutrition Expenses", which appears to be on the lower side and hence, the same is enhanced to Rs.5,000/-.

12. The amounts awarded by the Tribunal under all the other heads are fair and reasonable and hence, they are confirmed. The total compensation is re-determined as follows:

S. No.	Compensation awarded by the Tribunal under the heads	Amount awarded by the Tribunal in Rs.	Amount awarded by this Court in Rs.
1.	For 15% Disability (15x3,000)	45,000	45,000
2.	Loss of Income	18,000	30,000
3.	For Pain and Sufferings	20,000	20,000
4.	Loss of Amenities	10,000	10,000



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S. No.	Compensation awarded by the Tribunal under the heads	Amount awarded by the Tribunal in Rs.	Amount awarded by this Court in Rs.
5.	Transportation Expenses	5,000	5,000
6.	Nutrition Expenses	2,000	5,000
7.	Damages to Clothes	1,000	1,000
8.	Medical Expenses	7,452	7,452
	Total	1,08,452	1,23,452 (rounded off to Rs.1,24,000/-)

13. (i) Thus, the total compensation of Rs.1,08,452/- awarded by the Tribunal is hereby enhanced to Rs.1,24,000/- (Rupees one lakh and twenty four thousand only), which shall carry interest at 7.5% from the date of claim petition till the date of payment. The second respondent/Insurance Company is directed to deposit the total compensation awarded by this Court before the Tribunal, after adjusting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the entire amount. The appellant/claimant shall pay necessary Court fee, if any, on the enhanced compensation.

ii) The second respondent / Insurance Company is permitted to recover the above compensation amount from the first respondent / owner of the Auto in accordance with law, after making payments to the claimant.

14. With the above observations and directions, this Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-
Deputy Registrar (Accounts)

//True Copy//

Sub Assistant Registrar

pvs

To

1.The Chief Judicial Magistrate,
The Motor Accidents Claims Tribunal,
Cuddalore.



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

+1cc to Mr.P.Sankaranarayanan, Advocate Sr No.31018

+1cc to Mr.A.N.Viswanatha Rao, Advocate Sr No.31916

C.M.A. No.1341 of 2020

SR (CO)

PR (20/10/2021)