



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2021

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

C.M.A.No.2211 Of 2021

Gopalakrishnan

.. Appellant/Petitioner

Vs.

1. Krishnamurthi

2. The Chief Manager,

The Oriental Insurance Company Limited

3rd Party Claims Hub,

No. 216, Old No.115, Prakasam Salai,

Broadway, Chennai - 600 108.

...Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 06.03.2021 made in M.C.O.P.No. 1783 of 2015 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Cuddalore.

For Appellant : M/s.Ramya V.Rao

For Respondents : Mr.D.Bhaskaran (for R2)

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 06.03.2021 made in M.C.O.P.No. 1783 of 2015 on the file of the Motor Accident Claims Tribunal/ Chief Judicial Magistrate, Cuddalore.

2.The Appellant is the claimant in M.C.O.P.No. 1783 of 2015 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Cuddalore. He filed the above said claim petition, claiming a sum of Rs.20,00,000/- as compensation for the injuries sustained by him in the accident that took place on 04.04.2015.

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 Tractor



belonging to the 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of Rs.1,48,000/- as compensation to the Appellant.

4. Not being satisfied with the amount 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 Claims Tribunal, while fixing the negligence on the First Respondent vehicle went wrong in quantifying the award. He further submitted that the Claims Tribunal has fixed the notional income of the Appellant at Rs.6,500/- which is very low and further though the claimant was out of work for six months, the Tribunal has awarded compensation towards Loss of income for six months. He would further contend that the compensation awarded towards other heads are also meagre and prayed for enhancement of compensation.

6.Per contra, Mr.D.Bhaskaran, learned counsel appearing for the 2nd Respondent/Insurance Company contended that the Tribunal, on considering the Ex.C1- disability has rightly fixed disability at 24%, and by taking a sum of Rs.3,000/- per percentage has rightly awarded compensation towards partial permanent disability and the same is excessive. He further submitted that in the absence of any material evidence with regard to avocation and income, a sum of Rs.6,500/- per month fixed by the Tribunal as notional income of the Appellant is excessive and taking note of the disability suffered and period of treatment, the Tribunal has rightly awarded compensation towards Loss of income for two months at Rs.13,000/-. He further submitted that the total compensation awarded by the Tribunal under various heads is highly excessive and 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 and perused the entire materials on record.

8.It is the case of the Appellant that he sustained multiple grievous injuries all over the body. The Medical Board of Government Hospital, Cuddalore assessed the disability of the Claimant @24% . Taking note of the fact that the accident occurred in the year 2015, this Court finds it appropriate to award a sum of Rs.4,000/- per percentage of disability. Accordingly, the compensation towards Disability is enhanced to Rs. 96,000/- (4000x24).



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9. Considering the nature of injuries and period of treatment undergone by the Claimant, this Court feels it appropriate to enhance the compensation awarded towards Transport expenses, Extra nourishment and Attender charges to Rs.10,000/- for each head.

10. Taking note of the fact that the cost of living had increased enormously and the salary of even unskilled workers had increased substantially, notional income of the claimant fixed by the Tribunal was enhanced to Rs.10,000/- and this Court deems it appropriate to award Loss of Income for three months and accordingly the compensation towards Loss of Income is enhanced to Rs. 30,000/-.

11. As no compensation was awarded towards damages, this Court is inclined to award a sum of Rs.2,000/- towards damages and accordingly a sum of Rs.2,000/- is awarded towards damages.

12. The compensation awarded by the Tribunal towards Pain and Suffering and Loss of Amenities are just and reasonable and hence, 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.	Disability (3,000 x 24%)	72,000	96,000 (4,000 x 24%)	Enhanced
2.	Transport expenses	5,000	10,000	Enhanced
3.	Extra nourishment	5,000	10,000	Enhanced
4.	Attender charges	3,000	10,000	Enhanced
5.	Pain & sufferings	30,000	30,000	Confirmed
6.	Loss to amenities	20000	20,000	Confirmed
7.	Loss of income	13,000	30,000	Enhanced
8.	Damages	--	2,000	Granted
	Total	Rs.1,48,000/-	Rs.2,08,000/-	Enhanced by Rs.60,000/-



13. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,48,000 /- is hereby enhanced to Rs.2,08,000 /- 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.1783 of 2015 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Cuddalore. On such deposit being made, the Tribunal is directed to transfer the Award amount directly to the Bank account of the Appellant/Claimant through RTGS, within a period of two weeks. The appellant/claimant shall pay necessary Court fee, if any, on the enhanced compensation. However, it is made clear that if there is any delay in filing the C.M.A. and in case of any earlier order by this Court, depriving interest for the period of delay in question, the interest portion for that period should be excluded for the purpose of granting interest. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

arr/shk

To

1. Motor Accident Claims Tribunal,
Chief Judicial Magistrate,
Cuddalore.

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

+2cc to Mrs.Ramya V.Rao, Advocate SR.No.43584

C.M.A.No.2211 of 2021

CA(CO)
GN(30/03/2022)