



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.2912 of 2014

A.Ravichandran ... Appellant/Claimant

Vs.

1. N.Rajesh
No.40/41, Thiruvalluvar Street,
Perungulathur,
Chennai-63
(R1 remained Exparte before the Tribunal)

2. The Oriental Insurance Co., Ltd,
No.115/16 II Floor,
Broadway, Prakasam Salai,
Chennai- 600 104. ... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 10.01.2014 made in M.A.C.T.O.P.No.3574 of 2012 on the file of the Motor Accident Claims Tribunal, II Small Causes Court, Chennai.

For Appellant : Mr.F.Terry Chellaraja

For Respondents: Exparte (R1)
Mr.J.Chandran (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 10.01.2014 made in M.A.C.T.O.P.No.3574 of 2012 on the file of the Motor Accident Claims Tribunal, II Small Causes Court, Chennai.

2.The appellant is the claimant in M.A.C.T.O.P.No.3574 of 2012 on the file of the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai. He filed the above said claim



petition, claiming a sum of Rs.6,00,000/- as compensation on account of the injuries sustained by him in the accident that took place on 26.05.2011.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the rider of the motorcycle who is the first respondent herein and directed the 2nd respondent-Insurance Company to pay a sum of Rs.1,96,423/- as compensation to the appellant.

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 the Claims Tribunal has taken the disability @ 40% and by fixing a sum of Rs.2,000/- per percentage awarded a sum of Rs.80,000/- towards partial permanent disability, which is very low. He further submitted that the Claims Tribunal by fixing a sum of Rs.6,000/- as monthly income of the deceased has awarded a sum of Rs.18,000/- towards Loss of Income for three months which is very meager and the same needs to be enhanced. He further submitted that amount of compensation awarded towards other heads are also very low and hence prayed for enhancement of compensation.

6. The learned counsel appearing for the 2nd respondent-Insurance Company has agreed for fixing a sum of Rs.3,000/- per percentage of disability for computing the compensation towards permanent disability and also agreed for fixing income of the injured at Rs.8,000/- per month for computing Loss of income, however objected for enhancement towards other heads.

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

8.It is the case of the appellant that at the time of accident, the injured was earning a sum of Rs.10,000/- per month, but the Tribunal has fixed the income of the appellate at Rs.6,000/- which is very low. The accident is of the year 2016. The cost of living has increased enormously and salary of even unskilled workers has increased substantially. Hence, a sum of Rs.8,000/- per month is fixed as notional income of the deceased, which was agreed by the learned counsel for the Insurance Compensation. Therefore, by fixing a sum of Rs.8,000/- per month, compensation towards Loss of Income for three months comes to Rs.24,000/-(8000x3) and therefore a sum of Rs.24,000/- is awarded towards Loss for Income for three months.

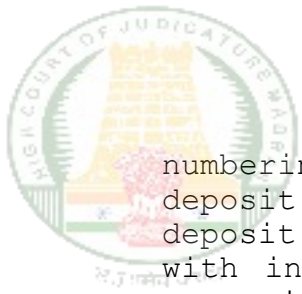


9. As agreed by the learned counsel for the Insurance Company a sum of Rs.3,000/- is fixed for per percentage of disability. By taking a sum of Rs.3,000/- per percentage of disability, compensation towards permanent disability comes to Rs.1,20,000/-. Hence, a sum of Rs.1,20,000/- is awarded towards Permanent Disability.

10. 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.	Loss of income for three months	18,000/-	24,000/-	Enhanced
2.	Transportation	5,000/-	5,000/-	Confirmed
3.	Extra nourishment	5,000/-	5,000/-	Confirmed
4.	Damage to clothes	1,000/-	1,000/-	Confirmed
5.	Medical Expenses	17,423/-	17,423/-	Confirmed
6.	Loss of amenities of life	10,000/-	10,000/-	Confirmed
7.	Mental agony to the claimant	10,000/-	10,000/-	Confirmed
8.	Pain and suffering	50,000/-	50,000/-	Confirmed
9.	Disability of 40% at the rate of Rs.2000 per disability	80,000/-	1,20,000/-	Enhanced
	Total	Rs.1,96,423/-	Rs.2,42,423/-	Enhanced by Rs.46,000/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,96,423/- is hereby enhanced to Rs.2,42,423/- together with interest at the rate of 7.5% per annum from the date of



numbering of the petition i.e. 14.08.2012 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 eight weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.3574 of 2012 on the file of the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai. 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. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accident Claims Tribunal,
II Small Causes Court, Chennai.

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

+1cc to M/s.M.Malar, Advocate Sr.37527
+1cc to Mr.J.Chandran, Advocate Sr.37787

C.M.A.No.2912 of 2014

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srg 12/11/2021