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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	13.09.2021
DELIVERED ON	22.09.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.A. (MD) No.194 of 2020

Ezhilarasan

...Appellant/Petitioner

Vs.

1.Balasundaram

2.The Branch Manager,

The National Insurance Company Limited,

D.No.T.S.4132, 1st Floor,

East Main Road,

Pudukottai, Pudukottai District.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Petition filed under Section 173(1) of Motor Vehicles Act, to allow this appeal and enhance the award amount of Rs.20,00,000/-.

For Petitioner :Mr.S.Pugalendhi

For R-1 :No appearance

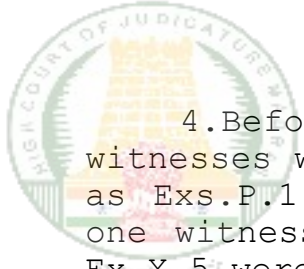
For R-2 :Mr.A.S.Mathialagan

ORDER

This Appellant/Claimant has filed this Civil Miscellaneous Petition seeking enhancement the award amount of Rs.20,00,000/- [Rupees Twenty Lakhs Only].

2.It is a case of fatal accident, which took place on 21.05.2017, at about 08.30 a.m., at West Meenatchinayakkanpatti service road, opposite to Matha Lathe works from south to north in the left side of the road. When the injured was driving his two wheeler, the lorry belonging to the first respondent herein bearing Registration No. TN-55-M-4599 came from the opposite side and dashed against the injured and caused injuries.

3. The claimant has filed a petition in M.C.O.P.No.843 of 2017 on the file of the Motor Accident Claims Tribunal/Subordinate Court, Dindigul, seeking compensation.



4. Before the Tribunal, on the side of the claimant four witnesses were examined as P.Ws.1 to 4 and marked eighteen documents as Exs.P.1 to P.18. On the side of the second respondent herein, one witness was examined as R.W.1 and marked Ex.R.1 and Ex.X.1 to Ex.X.5 were marked through P.W.3 & P.W.4.

5. The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments of the counsel for the appellant and claimant and also on appreciating the evidences on record, held that the accident occurred only, due to the rash and negligent driving of the driver of the lorry and directed the insurance company to pay a sum of Rs.7,16,920/- as compensation.

6. Against which, the appellant/claimant has filed this present appeal to enhance the award of compensation passed by the Tribunal.

7. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the second respondent and perused the materials available on record.

8. This appellant/claimant has filed this Civil Miscellaneous Petition against the fair and decreetal order, dated 03.09.2019 in M.C.O.P.No.843 of 2017 on the file of the Motor Accident Claims Tribunal, Dindigul.

9. The learned counsel appearing for the appellant contended that the trial Court has failed to consider that the appellant lost his left eye vision, the multiplier method for calculating the compensation. The Court below has also failed to consider transport expenses, pain and sufferings and also medical bills for Rs.5,13,634/-. Therefore, he filed this Civil Miscellaneous Petition for enhancement of award of Rs.20,00,000/-.

10. It is seen from the records that medical bills were marked as Ex.P.3 to Ex.P.5. The Court below has considered the medical bills and passed an award of Rs.4,89,920/- for medical expenses. The appellant has not clearly established that what are the bills not considered by the Tribunal.

11. The Court below has considered 45% disability of the appellant and passed an award for a sum of Rs.35,000/- (45 x 3,000/- = 35,000/-). The appellant has not produced any documents for loss of his eye vision. The total disability 45% includes eye disability 30%.

12. Further the appellant has not established that due to disability of his left eye vision, he lost his earning power. Therefore, the Court below has considered Rs.3,000/- for each percentage. Considering the stage of the appellant, this Court is inclined to enhance Rs.4,000/- for each percentage. Therefore, in the head of disability this Court enhanced the award amount to 45 x Rs.4,000 = Rs.1,80,000/-.



13. In the said accident, the appellant has sustained multiple injuries. The Court below has awarded only Rs.30,000/- for pain and suffering. Considering the nature of injuries, this Court is inclined to enhance the award amount to Rs.60,000/- for pain and suffering.

14. The Tribunal has awarded 4 x Rs.6,500/- for loss of income for four months salary. But, admittedly, he met an accident, while, he went to attend police recruitment. Therefore, his salary may be fixed at Rs.10,000/- for loss of four months salary.

15. Finally, the Tribunal has awarded Rs.3,000/- for transport charges. Since the claimant visited the hospital in several times for taking treatment this Court is inclined to enhance to Rs.4,000/- for transport charges.

16. The first respondent/insurance company has not filed any appeal against the award of compensation passed by the Tribunal. Therefore, we have to decide only quantum.

17. On hearing both sides, this Court is inclined to modify the award amount of compensation passed by the Tribunal.

18. Accordingly, the claimant is entitled for compensation as follows:

S.No	Description	Amount awarded by		Award confirmed/ enhanced/ granted
		Tribunal	this Court	
1.	Medical Expenses	Rs.4,89,920/-	Rs.4,89,920/-	confirmed
2.	For disability 45%	Rs.1,35,000/-	Rs.1,80,000/-	enhanced
3.	For pain and sufferings	Rs.30,000/-	Rs.60,000/-	enhanced
4.	For attendant charges	Rs.15,000/-	Rs.15,000/-	confirmed
5.	For loss of personal belongings and clothing	Rs.3,000/-	Rs.3,000/-	confirmed
6.	Loss of income due to the accident for four months	Rs.26,000/-	Rs.40,000/-	enhanced
7.	Transport charges	Rs.15,000/-	Rs.14,000/-	granted
8.	Extra Nourishment	Rs.15,000/-	Rs.15,000/-	confirmed
Total		Rs.7,16,920/-	Rs.8,16,920/-	

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with interest at 7.5% p.a., as awarded by the Tribunal, from the date of claim petition till the date of realization.



19. In view of the said modification, this Civil Miscellaneous Appeal is partly allowed, and the award amount granted by the Motor Accident Claims Tribunal, Dindigul, is enhanced to Rs.8,16,920/-. The appellant/claimant is entitled to get the enhanced award amount with 7.5% interest from the date of petition through his bank account No.023701000010251, Indian Overseas Bank, Sithayankottai, through NEFT or RTGS mode. The second respondent/insurance company is directed to deposit the aforesaid award of compensation before the Tribunal. After depositing the amount, the appellant/claimant is permitted to withdraw the compensation amount with accrued interest and costs, by filing necessary application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

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/ /2021

Sub Assistant Registrar (CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

TO

The Special Sub Judge,
The Motor Accident Claims Tribunal,
Dindigul.

Copy to:

The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court, Madurai - 2 Copies.

+1 CC to M/s.A.S.MATHIALAGAN, Advocate (SR-29923 dated 22/09/2021)

C.M.A. (MD) No.194 of 2020

22.09.2021

MGJ(30.09.2021) 4P 5C