



C.M.A.No.2707 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

C.M.A.No.2707 of 2013

Anand @ Palani Raja

... Appellant

vs.

1.Suresh Kumar

2.The Branch Manager,
United India Insurance Co. Ltd.,
Nagapattinam.

3.Gopinath

4.The Branch Manager,
New India Assurance Co. Ltd.,
Nagapattinam.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Judgment and Award passed in M.C.O.P.No.120 of 2008 dated 14.10.2008 on the file of the Motor Accident Claims Tribunal, Thiruvavarur.

For Appellant	: No Appearance
For Respondents	: Mr.S.Arunkumar[R2] Mr.M.Krishnamoorthy[R4] R1 & R3 – Served – No Appearance



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JUDGMENT

The claimants are the appellants before this Court seeking enhancement of the award passed by the Motor Accident Claims Tribunal Sub-Court, Thiruvavarur in M.C.O.P.No.120 of 2008 dated 14.10.2008.

2.The parties are referred to in the same rank as before the Tribunal.

3. The brief facts are narrated below:

It is the case of the petitioner that he had sustained injuries in a road accident on 10.07.2007. On the said date, the petitioner was driving his tractor bearing Reg.No.TN-50-C-9939 and proceeding on the south to north and when he turned to the west, the 1st respondent's vehicle came in a rash and negligent manner and dashed against the petitioner's tractor, as a result of which he had sustained injuries. The petitioner has impleaded the owner of the tanker and its insurer and the tractor and its insurer as respondents 1 to 4.

4. Heard the learned counsel for the appellants and the learned counsel for the respondents and perused the records.



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WEB COPY 5. The petitioner had claimed a compensation of a sum of Rs.3,72,500/-. It is his contention that he is the driver of the tractor, earning a monthly income of Rs.5,000/-. The 2nd respondent/Insurance Company which is the insurer of the tanker lorry has filed a counter denying the allegations of the petitioner and also denying the age, income and nature of injuries sustained by him.

6. The Tribunal held that the accident had occurred only on account of the negligence of the driver of the tanker lorry and therefore, proceeded to award a compensation of Rs.51,750/- (75% of Rs.69,000/-).

7. The petitioner/claimant is aggrieved by the fact that a very low compensation has been granted and therefore, filed the present appeal before this Court.

8. The learned counsel for the appellant was not present before this Court on 14.07.2020, 04.08.2020, 08.09.2020 and 16.09.2022. The appellant despite being directed to furnish copies to the respondent has



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failed to do so.

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9. Today, when the matter was called thrice, the the counsel for the appellant has not appeared. The appeal is of the year 2013, therefore, this Court proceeded to hear the respondents and perused the materials on record and passed the order.

10. The award is challenged only on the ground that the compensation awarded is low. The petitioner has been an in-patient in the hospital from 10.07.2007 to 06.08.2007, which is evidenced by Ex.B9 and the disability is assessed as 28%. The Tribunal below has awarded a sum of Rs.45,000/- under the head of partial permanent disability. The petitioner has suffered a fracture in the right radial and ulna bone and he recovered from the same. Therefore, the award of Rs.45,000/- towards disability requires no reconsideration. Likewise, a sum of Rs.12,000/- granted towards loss of income for the period of three months, appears to be reasonable and does not require any reconsideration. The award under the head of Extra Nourishment is enhanced to a sum of Rs.5,000/- from Rs.1,000/- and likewise amount granted under the head of Transportation is



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enhanced to a sum of Rs.3,000/- from Rs.1,000/-. In all other aspects, the

award of the Tribunal remains unaltered. Therefore, the Compensation

awarded by the Tribunal is reworked as below:

S.No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	Permanent Disability	Rs. 45,000/-	Rs. 45,000/-	Confirmed
2	Loss of Income	Rs. 12,000/-	Rs. 12,000/-	Confirmed
3	Extra Nourishment	Rs. 1,000/-	Rs. 5,000/-	Enhanced
4	Transportation	Rs. 1,000/-	Rs. 3,000/-	Enhanced
5	Pain and Sufferings	Rs. 10,000/-	Rs. 10,000/-	Confirmed
	TOTAL	Rs. 69,000/-	Rs. 75,000/-	
		75% of Rs.69,000/- = <u>Rs.51,750/-</u>	75% of Rs.75,000/- = <u>Rs.56,250/-</u>	

11. In the result, this Civil Miscellaneous Appeal is allowed and the compensation of Rs.51750/- awarded by the Tribunal is hereby Enhanced to a sum of Rs.56,250/-. Therefore, the 2nd respondent / Insurance Company is directed to deposit the enhanced amount of Rs.56,250/- to the credit of



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M.C.O.P.No.120 of 2008 on the file of the Motor Accident Claims

Tribunal, Thiruvavarur, together with interest @ 7.5% per annum from the date of claim petition till the date of deposit and costs, less, the amount, if any already deposited, within a period of four weeks from the date of receipt of a copy of this Judgement. On such deposit being made, the claimant is permitted to withdraw the amount now determined by this Court, as apportioned by the Tribunal, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal. It is made clear that there is no interest for the default period. No costs.

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Index : Yes/No

Speaking / Non-speaking order

ssn

To:

1. The Motor Accident Claims Tribunal,
Thiruvavarur.
2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.



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P.T.ASHA, J.,

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