



C.M.A.No.2539 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2022

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.2539 of 2022

M.Vinothkumar

...Appellant

Vs

1.K.Veera Raghavan

2.The Oriental Insurance Co. Ltd.,
“Oriental House” II Floor,
New No.216, Old No.115,
Prakasam Salai, Broadway,
Chennai – 600108.

... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the

Motor Vehicles Act, 1988, against the Judgement and Decree in

M.C.O.P.No.3258 of 2015 dated 25.09.2019 on the file of the Motor



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Accident Claims Tribunal / IV Judge, Small Causes Court, Chennai.

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For Appellant : Mrs.Ramya V. Rao

For Respondent 2: Mrs.R.Sree Vidhya

JUDGEMENT

The petitioner has filed the above Civil Miscellaneous Appeal seeking enhancement of the award passed by the Motor Accident Claims Tribunal, IV Small Causes Court, Chennai, in M.C.O.P.No.3258 of 2015. Considering the limited scope in the above appeal, I do not wish to traverse through the facts of the case, suffice it state that the appellant had filed the above claim petition seeking compensation of a sum of Rs.60,00,000/-, for the injuries sustained by him in a road accident on 14.09.2014. The appellant would submit that he is aged 19 years and was working as a painter, earning a monthly income of a sum of Rs.15,000/-.



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2. The Tribunal had fixed a notional monthly income of a sum of Rs.10,000/-, to which 40% was added towards future prospects and multiplier of 18 has been adopted. Ultimately, a sum of Rs.12,09,600/- was granted under the head of loss of functional disability. After deducting 10% towards contributory negligence, the Tribunal has ultimately granted a sum of Rs.18,35,730/-, which is rounded off to a sum of **Rs.18,36,000/-**, as a total compensation.

3. The learned counsel for the appellant / petitioner would submit that the notional income fixed by the Tribunal was on the lower side and taking into account the occupation of the appellant, the Tribunal ought to have fixed higher notional income. Further, the Tribunal has erred in deducting amount towards personal expenses.

4. The learned counsel appearing for the Insurance Company



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would concede that the deduction of amount towards personal expenses was wrong but would however state that income fixed by the Tribunal was fair and reasonable.

5. Heard the learned counsels and perused the records.

6. The appellant is a painter by profession and he would atleast earn minimum of a sum of Rs.11,000/-. Therefore, the notional income is fixed at Rs.11,000/-, to which 40% is added towards future prospects. The appellant is aged about 19 years and therefore appropriate multiplier is 18. The disability has been assessed at 80%. Therefore, the amount under the head of functional disability would be Rs.15,400/- x 12 x 18 x 80/100, which is **Rs.26,61,120/-**. Under all other heads, the award would be remain unaltered. Therefore, the total compensation now works out to a sum of **Rs.34,91,220/-**.



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7. The award of the Tribunal below is re-worked as follows:

<i>Heads</i>	<i>Award of the Tribunal</i>	<i>Award of the High court</i>
Loss of Functional Disability	Rs.12,09,600/-	Rs.26,61,120/-
Medical Expenses	Rs.1,83,100/-	Rs.1,83,100/-
Future Medical Expenses	Rs.2,50,000/-	Rs.2,50,000/-
Loss of Income	Rs.1,00,000/-	Rs.1,00,000/-
Pain and Sufferings	Rs.1,25,000/-	Rs.1,25,000/-
Transport Charges	Rs.50,000/-	Rs.50,000/-
Additional Nourishment	Rs.50,000/-	Rs.50,000/-
Damage to Clothes	Rs.2,000/-	Rs.2,000/-
Attender Charges	Rs.20,000/-	Rs.20,000/-
Loss of Amenities	Rs.50,000/-	Rs.50,000/-
Total	Rs.20,39,700/-	Rs.34,91,220/-
After deducting 10% contributory negligence	Rs.18,35,730/-	Rs.31,42,098/-

8. The Tribunal has held that the appellant has also contributed



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to the accident and has fastened 10% contributory negligence upon him. Therefore, the Insurance Company shall pay a sum of **Rs.31,42,098/-** together with interest at 7.5% p.a, from the date of the petition till the date of realization of the award.

9. The appeal was filed with the delay of 708 days and while allowing the condone delay petition in C.M.P.No.15315 of 2022, this Court had held that the appellant will not be entitled to interest for the delayed period of 708 days. Accordingly, the appellant will not be entitled to the interest for the delayed period.

10. The Insurance Company is directed to deposit the enhanced award amount along with interest and costs, less the amount already deposited within a period of six weeks from the date of receipt of a copy of this Judgement, to the credit of M.C.O.P.No.3258 of 2015. On such deposit, the appellant is permitted to withdraw the award

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amount, along with interest and costs, less the amount if any, already withdrawn, by filing necessary application before the Tribunal. The appellant shall show proof of payment of the Court fees for the enhanced award amount and only on such proof, he shall be permitted to withdraw the amounts so deposited.

11. With the above direction, the Civil Miscellaneous Appeal is allowed. No costs.

24.11.2022

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Index : Yes/No
Speaking order/non-speaking order

To,

The Motor Accident Claims Tribunal / IV Judge,
Small Causes Court,

7/8



Chennai
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P.T.ASHA, J.,

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