



C.M.A.No.921 of 2018

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2022

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.921 of 2018

Ramesh

...Appellant

Vs

1.C.Babu

2.The Manager,
National Insurance Co. Ltd.,
Now at, No.46, Moore Street, HUB, III – Floor,
Chennai – 1.

... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the award passed in M.C.O.P.No.46 of 2015 dated 12.08.2015 on the file of the Special Sub Judge, Motor Accident Claims Tribunal, Thiruvallur.



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For Appellant : Mr.K.R.Ponnusamy
for M/s.Anand & Suryas

For Respondent 1 : Ex parte

For Respondent 2 : Mr.G.Anandan

JUDGEMENT

The petitioner has preferred the above appeal seeking enhancement of the compensation granted by the Motor Accidents Claims Tribunal, Sub Court, Thiruvallur in M.C.O.P.No.46 of 2015. The facts in brief are as follows. The parties are referred to in the same rank as before the Tribunal.

2. The petitioner has filed the above claim petition seeking compensation of a sum of Rs.12,00,000/-, for the injuries sustained by him in a road accident on 26.01.2009. It is the case of the petitioner that he was employed as an Assistant Security Officer with



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M/s.P.P.J.Recycling India Private Limited, drawing a monthly salary of Rs.5,500/-.

3. It is the case of the petitioner that on 26.01.2009 at about 21.30 hours, the petitioner was riding his motor cycle bearing registration No.TN 20 AC 2694 proceeding from Manavala Nagar to Sriperumbudur. At that time, the lorry bearing registration No.TSH 4145 belonging to the 1st respondent and insured with the 2nd respondent came in the opposite direction. Since the driver of the said lorry was driving the same in a rash and negligent manner, it had hit the petitioner's vehicle as a result of this accident the petitioner had sustained grievous injuries. Therefore, he had filed the above claim petition.

4. The 1st respondent, owner of the lorry remained ex parte.



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5. The Insurance Company had filed a counter inter alia contending that the accident had occurred on 26.01.2009, whereas, the FIR was registered only on 28.01.2009, which clearly shows that the intent was to foist the claim upon the respondent Insurance Company. The Insurance Company had also denied the age, income and occupation of the petitioner.

6. The Tribunal below on considering the evidence on record, came to the conclusion that the accident had occurred only on account of the negligence of the lorry driver. Thereafter, the Tribunal has adopted a monthly notional income of a sum of Rs.8,500/- though the petitioner had stated that he was earning a sum of Rs.5,500/- at the time of the accident. After deducting and granting compensation under the conventional heads, the Tribunal has arrived at a total compensation of a sum of Rs.6,89,891/-. The Tribunal has granted compensation under the head of Disability on percentage basis and not by adopting



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multiplier method. Therefore, the petitioner has preferred the above appeal seeking enhancement.

7. The learned counsel for the petitioner would submit that the petitioner has not been gainfully employed anywhere on account of the side effects of the injury sustained by him. The learned counsel for the petitioner would therefore submit that taking into account the Disability certificate issued by P.W.4, and the Discharge Summaries Ex.P.2 and Ex.P.3, it is clear that the petitioner has sustained grievous injuries and the Tribunal ought to have awarded a compensation by adopting multiplier method.

8. Heard the learned counsel and perused the records.

9. Though the petitioner has stated that monthly income of the petitioner was only a sum of Rs.5,500/-, the Tribunal has adopted a



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notional income of Rs.8,500/-, the same will not be disturbed since no amounts have been granted under the head of Future Prospects. The Tribunal has further assessed Disability at 40%. The petitioner is aged about 31 years, therefore multiplier to be adopted would be 16. Therefore, the revised amount payable under the head of Disability would be a sum of **Rs.6,52,800/-** (Rs.8,500/- X 12 X 16 X 40% =Rs.6,52,800/-). Accordingly, the amount granted under the head of Loss of Income is deleted.

10. The petitioner has been an inpatient for over 11 days. Therefore, an additional sum of Rs.10,000/- is granted under the head of Transportation and a further sum of Rs.5,000/- is granted under the head of Pain and Sufferings. The amount under the head of Attender Charges has to be increased to a sum of Rs.15,000/-. The amounts granted under the other heads remain unchanged.



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

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<i>Heads</i>	<i>Award of the Tribunal</i>	<i>Award of the High Court</i>
Medical Expenses	Rs.4,75,026/-	Rs.4,75,026/-
Partial Permanent Disability	Rs.1,20,000/-	Rs.6,52,800/-
Pain and Suffering	Rs.35,000/-	Rs.40,000/-
Loss of Income	Rs.30,865/-	Removed
Transportation Charges	Rs.5000/-	Rs.15,000/-
Extra Nourishment	Rs.10,000/-	Rs.10,000/-
Damage to Cloth	Rs.1,000/-	Rs.1,000/-
Attender Charges	Rs.3,000/-	Rs.15,000/-
Loss of Amenities	Rs.10,000/-	Rs.10,000/-
Total	Rs.6,89,891/-	Rs.12,18,826/- together with interest at 7.5% p.a.

12. 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.46 of 2015. On



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such deposit, the petitioner is permitted to withdraw the proportioned amount in the enhanced award amount as fixed by the Tribunal, less the amount if any, already withdrawn, by filing necessary application before the Tribunal. The petitioner 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. In all other respects, the award of the Tribunal below stands confirmed.

13. In the result, the Civil Miscellaneous Appeal is allowed. No costs.

06.07.2022

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

To,
The Special Sub Judge,
Motor Accident Claims Tribunal,
Thiruvallur.

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P.T.ASHA, J.,

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