



C.M.A.No.1334 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2022

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.1334 of 2020

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Cros. Obj. No.58 of 2022

C.M.A.No.1334 of 2020

G.Pandurangan @ Pandiyarajan

...Appellant

Vs

1.S.Jayakumar

2.M/s.Reliance General Insurance Co., Ltd.,
Reliance House 6th Floor,
6, Haddows Road, Nungambakkam,
Chennai 600 006

... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and Decree dated 11.02.2020 in M.C.O.P.No.2413 of 2017 on the file of the Motor Accidents Claims Tribunal Judge / Principal Sub Judge (FAC) Cuddalore.



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For Appellant : Mrs.Ramya V. Rao
For Respondent 1: No Appearance
For Respondent 2: Ms.C.Bhuvana Sundari

Cross Obj. No.58 of 2022

M/s.Reliance General Insurance Co., Ltd.,
Reliance House 6th Floor,
6, Haddows Road, Nungambakkam,
Chennai 600 006.

.... Cross Objector

Vs

1.G.Pandurangan @ Pandiyarajan

2.S.Jayakumar

... Respondents

Prayer: The Cross Objection is filed under Order XLI Rule 22 of the Code of Civil Procedure against M.C.O.P.No.2413 of 2017 on the file of the Motor Accident Claims Tribunal, Principal Sub Judge, (Cuddalore).

For Cross Obj. : Ms.C.Bhuvana Sundari
For Respondent 1 : Mrs.Ramya V. Rao



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Judgement

The claimant aggrieved by the reduced compensation awarded by the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Cuddalore has filed the above appeal. The facts necessary for disposing of this appeal are as follows.

2. The appellant had filed M.C.O.P.No.2413 of 2017 seeking compensation of a sum of Rs.25,00,000/- for the injuries sustained by him in the road traffic accident. The appellant had contended that he is a Mason by profession and aged about 30 years. He would contend that on a month he would earn a sum of Rs.15,000/-.

3. The appellant would submit that on 19.02.2017 at about 21.45 hrs, when he was proceeding on his Hero Xtreme Motor Cycle, from north to south with his wife and two children maintaining extreme left



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on Panruti Kumbakonam main road, the 1st respondent in his Yamaha motor cycle coming in the opposite direction in a rash and negligent manner dashed against the appellant's motor cycle, as a result of which the appellant had sustained fractures and multiple grievous injuries.

4. The appellant had contended that the injuries had affected his earning capacity. The owner of the 1st respondent vehicle and the Insurance Company remained absent and were set ex parte.

5. The Tribunal on considering the evidence had come to the conclusion that the accident had occurred only on account of the negligence on the part of the driver of the 1st respondent vehicle. The Tribunal taking into account the injuries sustained and considering Ex.C.1, Discharge Certificate issued by the Medical Board assessed the disability at 25%.



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6. Since the appellant had not produced proof of his income, the Tribunal had fixed the notional income of Rs.6,500/-. Considering the nature of the injuries and its impact on the future functioning of the appellant, the Tribunal below had arrived at a sum of Rs.3,12,000/- under the head of Partial Permanent Disability and ultimately awarded a compensation of Rs.9,01,536/-.

7. Aggrieved by the said award, the petitioner has filed the above appeal. The respondent Insurance Company which has not participated in the proceedings before the Tribunal below had filed the Cross Objection challenging the quantum of compensation.

8. Heard the learned counsel on either sides and perused the records.



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9. There is no dispute regarding the fact that the appellant was employed as a Mason. The accident has taken place in the year 2017. Therefore, the notional income fixed by the Tribunal has to be increased to a sum of Rs.10,000/-. Therefore, the amount under the head of loss of income / permanent disability is enhanced to a sum of Rs.4,80,000/-.

10. The injuries sustained by the appellant is Stump Level Amputation and Clavicle Bone Fracture. The Tribunal below has awarded only a sum of Rs.15,000/- under the head of Extra Nourishment, though the appellant was treated as inpatient for 19 days. Therefore, the amount under this head is enhanced to a sum of Rs.16,500/-. A sum of Rs.7,000/- granted under the head of Attender Charges for 19 days is enhanced to a sum of Rs.20,000/-. A sum of Rs.32,500/- granted under the head of loss of income during treatment period is set aside. The enhanced compensation would be as follows:



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<i>Heads</i>	<i>Tribunal</i>	<i>High Court</i>
Loss of Income / Permanent Disability	Rs.3,12,000/-	Rs.4,80,000/-
Transportation	Rs.20,000/-	Rs.20,000/-
Extra Nourishment	Rs.15,000/-	Rs.16,500/-
Attender Charges	Rs.7,000/-	Rs.20,000/-
Pain and Sufferings	Rs.50,000/-	Rs.50,000/-
Loss of Amenities	Rs.25,000/-	Rs.25,000/-
Medical Bill	Rs.4,40,036/-	Rs.4,40,036/-
Loss of income during treatment period	Rs.32,500/-	Removed
Total	Rs.9,01,536/-	Rs.10,51,536/-

11. 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.2413 of 2017. The claimant shall show proof of payment of the Court fees and only on such proof, the claimant is permitted to withdraw the award amount, after adjusting the amount, if any, already withdrawn, by filing



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necessary application before the Tribunal.

12. In the result, the Civil Miscellaneous Appeal is allowed. In the light of the order passed in Civil Miscellaneous Appeal, the Cross Objection in Cros. Obj. No. 58 of 2022 is dismissed. No costs.

22.06.2022

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

To,

1.The Motor Accidents Claims Tribunal Judge /
Principal Sub Judge (FAC)
Cuddalore.



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P.T.ASHA, J.,

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