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C.M.A.No.1143 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2022

CORAM

THE HON'BLE **Mrs.JUSTICE J.NISHA BANU**

C.M.A.No.1143 of 2014

Santhamurthy
Rep.by his wife next friend/Guardian
Kalaivani

.. Appellant

Vs.

1.M.Ranganathan

2.The Branch Manager,
National Insurance Company Ltd.,
Cuddalore.

(The 1st Respondent was set exparte
in lower Court)

Respondents

..

Prayer.: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 04.09.2012 made in M.C.O.P.No.453 of 2009 on the file of the Motor Accident Claims Tribunal (II Additional District Judge) Tindivanam.



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For Appellant : M/s.R.Muralidharan

For Respondents

R2 : Mr.J.Chandran

J U D G M E N T

This Civil Miscellaneous Appeal is filed by the appellant/claimant seeking enhancement of compensation.

2. On 23.11.2007 at about 07.30 p.m., when the appellant/claimant was travelling as a pillion rider in a motor cycle bearing Registration No.PY01 AL-9613, from Tindivanam towards Pondy via Kiliyanur Road, the first respondent's lorry bearing Registration No.TB.41.Z.3277 came from behind in a rash and negligent manner and hit the appellant/claimant's motor cycle. As a result of which, the claimant sustained grievous injuries and fractures all over the body. For the injuries sustained by him, the Claimant filed a Claim Petition claiming a sum of Rs.15,00,000/- as compensation.



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3. After considering the pleadings, oral and documentary evidence on record, the Tribunal has awarded a sum of Rs.11,12,500/- under the following heads:-

S.No.	Heads	Amount awarded by the Tribunal
1	Annual Income of the petitioner before the accident (Rs.4,000x12 = 36,000/- x 16	Rs.7,68,000/-
2	Pain and suffering	Rs. 40,000/-
3	Medical expenses	Rs. 2,34,500/-
4	Transportation	Rs. 30,000/-
5	Attender Charges	Rs. 40,000/-
	Total	Rs.11,12,500/-

4. Feeling not satisfied with the quantum of award, the appellant/claimant has filed this Civil Miscellaneous Appeal for enhancement of compensation.

5. The learned counsel for the appellant would submit that the



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monthly income of the appellant/claimant assessed by the Tribunal at Rs.5,000/- is very low and prayed for increasing the same to Rs.6,500/- per month.

6. The learned counsel for the second respondent-Insurance Company would submit that the monthly income of the appellant/claimant assessed by the Tribunal is correct and now the enhancement sought for by the claimant at Rs.6,500/- p.m is on the higher side. The learned counsel for the second respondent Insurance Company would further submit that the compensation awarded to the appellant/claimant is a just compensation and there was no infirmity in the impugned judgement and decree and therefore prays for dismissal of this Civil Miscellaneous Appeal.

7. Heard both sides and perused the records.

8. A perusal of the records would show that the appellant-claimant has taken treatment as in-patient at various Hospitals from 23.11.2007 to 6.3.2008. P.W.4 – doctor assessed 40% disability; P.W.5- Neuro Specialist assessed 70% disability for fracture of head and injuries in



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the brain. Further, the appellant/claimant was also examined by P.W.6- Eye Specialist who assessed 50% disability; P.W.7 Doctor assessed 70% disability and P.W.8 doctor assessed 50% disability. From the above, it is clear that the claimant could not continue his avocation as driver as he suffered partial paralysis. The Tribunal, after taking into account the age of the injured, serious injuries sustained by him and the disability caused to him, adopted multiplier 16 and granted compensation. However, the notional income taken by the tribunal is not justifiable. Hence, taking note of settled proposition of law and the avocation of the injured, this court deems it fit to take the notional income of the appellant as Rs.6,000/- p.m. Accordingly, loss of income is arrived at Rs.11,52,000/- (Rs.6,000 x 12 x 16). Except the above modification, the award of the Tribunal under other heads stand confirmed. The modified compensation granted by this court is as under:-

Permanent disability	: Rs.11,52,000/-
Pain and suffering	: Rs. 40,000/-
Medical expenses	:Rs. 2,34,500/-



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Transportation expenses :Rs. 30,000/-

Attender charges : Rs. 40,000/-

Total : Rs.14,96,500/-

Rounded off to : Rs.15,00,000/-

9. In the result, this Civil Miscellaneous Appeal is allowed. Award is enhanced to Rs.15,00,000/- together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of such deposit. The 2nd respondent-Insurance Company is directed to deposit the enhanced award amount, now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant is permitted to withdraw the same together with interest, less the amount already withdrawn if any, by filing suitable application before the Tribunal. No costs.

24.03.2022

Index : Yes/No



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Internet : Yes/No
kkd/nvsri

To

1. The Motor Accident Claims Tribunal
(II Additional District Judge) Tindivanam.
- 2.The Record Keeper, V.R.Section, High Court, Madras.



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J.NISHA BANU, J.

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