



C.M.A.No.2577 of 2014

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 09.12.2022	Pronounced on 23.12.2022
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CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2577 of 2014

V.Sugudev,
S/o.Late Veera Ragavan,
Arcot Kuppam Village and Post,
Thiruttani Taluk,
Tiruvallur District.

... Appellant

Vs.

1.M/s.Valeo Friction Materials India Ltd.,
No.16A, Sengundram Industrial Area,
Singaperumal Koil, Kancheepuram,
Tamil Nadu.

2.ICICI Lombard General Insurance Co. Ltd.,
No.140, Nungambakkam High Road,
II and III – Floor, Chottabai Centre,
Nungambakkam, Chennai 34.

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the Award passed in the above MCOP.No.198 of 2006 dated 21.01.2008 on the file of the Chief Judicial Magistrate Court, Tiruvallur/Motor Accident



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Claims Tribunal, Tiruvallur.

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For Appellant : M/s.Anand and Suryas

For Respondents : Ms.R.Sree Vidhya (for R2)

R1 - No appearance

J U D G M E N T

The Appeal has been filed to set aside the Award passed in MCOP.No.198 of 2006 dated 21.01.2008, on the file of the learned Chief Judicial Magistrate, Tiruvallur/Motor Accident Claims Tribunal, Tiruvallur.

2.The claim Petitioner is the Appellant herein. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3.The claim Petitioner filed the above Appeal, seeking compensation for the injuries sustained by him in a road traffic accident on 11.09.2006. The Tribunal has awarded a sum of Rs.97,200/- with interest at the rate of 7.5 % and



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costs. Aggrieved against the same and seeking enhancement, he has preferred this Appeal.

4.During the trial, on the side of the claim Petitioner, PW1 and PW2 were examined, Ex.P1 to Ex.P.6 were marked and on the side of the Respondents, none was examined and no documents were marked.

5.Heard the learned counsel for the claim Petitioner/Appellant and learned counsel for the 2nd Respondent.

6.The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are not under challenge in this Appeal. Accordingly, the finding rendered by the trial Court that the accident taken place due to the rash and negligent driving of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are hereby confirmed.



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7.On the point of quantum of compensation both the parties have been heard. The injured himself was examined as PW1. Regarding the nature of injuries, PW2/Dr.Thiagarajan, was examined and through him Ex.P.5 & Ex.P.6 were marked. PW2/Doctor deposed that he had examined the claim Petitioner and accordingly issued Ex.P.6/Disability Certificate, fixing the disability at 50% and as per his evidence, there is a malunion on the right leg both tibia and fibula bones over the ankle, after the surgery done for the injury sustained by the claim Petitioner in the accident and there was a fracture, nailing has also been done, the claim Petitioner is suffering from 80% restriction in folding the knees and 10% reduction in the movement of ankle.

8.The date of accident is 11.09.2006, initially, the deceased was taking treatment for two days in a private hospital and subsequently, he was admitted in Kilpauk Government Hospital and discharged from there on 09.10.2006 and totally, the deceased was taking treatment as inpatient for a period of 29 days. The Tribunal has awarded a sum of Rs.12,200/- towards medical expenses, as per Ex.P.4, the same is hereby confirmed.



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9.Considering the nature of injuries, opinion of PW2/Doctor and also taking note of the fact that the claim Petitioner was treated as inpatient for a period of 29 days, this Court finds that it is appropriate to fix the disability at 35% and therefore, a sum of Rs.70,000/- (Rs.2,000/- X 35) is awarded towards permanent disability and enhanced the amount awarded towards other heads including permanent disability and Medical bills as follows:

<i>S.No.</i>	<i>Heads</i>	<i>Amount (Rs.)</i>
1	Permanent disability	70000
2	Pain and sufferings	50000
3	Transportation	10000
4	Extra nourishment	10000
5	Medical bills	12200
6	Attender charges	20000
	Total	172200

In total, the claim Petitioner is entitled to a sum of Rs.1,72,200/- (Rupees one lakh seventy two thousand and two hundred only). Interest at the rate of 7.5% per annum fixed by the Tribunal is also confirmed. The Appeal was filed with the delay of 1609 days in filing the Appeal, and while allowing the condone delay petition in M.P.No.2 of 2014, this Court had held that the claim Petitioners will not be entitled to interest for the default period.



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WEB COPY 10. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the award amount from Rs.97,200/- to Rs.1,72,200/- to the extent indicated above, with 7.5% interest per annum. No Costs.

(ii) the 2nd Respondent/insurance company is directed to deposit the enhanced award amount (excluding the interest for the default period) before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) on such deposit being made, the claim Petitioner/Appellant is permitted to withdraw the entire enhanced award amount with accrued interest and costs, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) the claim Petitioner/Appellant is directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

23.12.2022



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Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order
sai

To
The learned Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Tiruvallur.



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RMT.TEEKAA RAMAN.J,

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Pre-delivery Judgment made in

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Dated: 23.12.2022