



C.M.A.No.1335 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2022

C O R A M

THE HONOURABLE Ms.JUSTICE P.T.ASHA

C.M.A.No.1335 of 2017

C.Hemanth

.. Appellant

-Vs.-

1. Gorla Venkateswar Rao
[R1 set ex-parte before the lower Court]

2.The ICICI Lombard General Insurance Company Limited,
Arihant Plaza, Nos.84 and 85, Wall Tax Road,
Chennai 600 003

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 29.02.2016 made in M.C.O.P.No.3382 of 2011 on the file of the Motor Accident Claims Tribunal (IV Judge, Court of Small Causes) at Chennai.



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C.M.A.No.1335 of 2017

For Appellant : Ms.S.R.Surya

For Respondent-1 : *Ex-parte*

For Respondent-2 : Ms.R.Sreevidya

JUDGMENT

Aggrieved by the Award passed by the Motor Accident Claims Tribunal, Chennai (IV Court of Small Causes) Chennai in M.C.O.P.No.3382 of 2011, the petitioner has filed the above appeal.

2. The parties are referred to in the same ranking as before the Tribunal. The brief facts are as follows:-

The petitioner is an Advocate by profession and he would submit that he was earning a minimum sum of Rs.10,000/- per month. On 02.07.2011 at about 18.30 hours, when he was proceeding as a pillion rider in a motor-cycle bearing Registration No.TN 07 AG 3783 at MRO Office, Vadamalapet Puttur-Renigunta NH Road, a tractor bearing Registration No.AP 03 AM 0828 and trailer, bearing Registration No.AP 03 AM 0829, which is proceeding in front of the motor-cycle carrying plastic pipes. The



C.M.A.No.1335 of 2017

petitioner's vehicle was behind the tractor trailer, the driver was driving the same in a rash and negligent manner. All of a sudden, he had stopped the vehicle, as a result of which, the pipes had hit the face of the petitioner, who was riding pillion in the motor cycle. On account of the said accident, the petitioner had suffered the following injuries:

- 1. Fracture of Both walls of Right Frontal Sinus*
- 2. Communitated Fracture of the Right frontal Bone with Inward Displacement of few Fragments*
- 3. Communitated Fracture of Right parietal Bone*
- 4. Communitated Fracture of the Roof, medial and lateral walls of the Right orbit*
- 5. communitated Fracture of the Right Zygomatic arch*
- 6. Communitated Depressed Fracture of all the walls of the right maxillary sinus and the floor of the right orbit and undergone open reduction and internal fixation of fracture right zygomatic maxillary complex with fracture Right Orbit and frontal bone*
- 7. Fracture of greater and lesser wing of left sphenoid*
- 8. Right Basifrontal Contusion*
- 9. Injury on the right the right eye causing compression to the Optic Nerve and displacement of eye ball.*

The accident has caused disfigurement of his face. It is also seen that the



C.M.A.No.1335 of 2017

petitioner has suffered a reduced vision in his right eye.

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3. The Tribunal has adopted a notional income of only a sum of Rs.6,500/- and adopted multiplier method to arrive at a compensation of a sum of Rs.7,02,000/- under the head of “functional disability”. That apart, despite the number of days that the petitioner has been hospitalized, the Tribunal has awarded only a sum of Rs.10,000/- under the head of “Extra nourishment”, Rs.6,500/- under the head of “Attender Charges” and a sum of Rs.25,000/- under the head of “Future medical expenses”.

4. Heard the learned counsel for the appellant and the learned counsel for the second respondent-Insurance Company.

5. The appellant is a Lawyer by profession and he would have earned anything between Rs.8,000/- to Rs.10,000/-. Therefore, the notional income shall be enhanced to a sum of Rs.8,000/-. Consequently, the amount under the head of functional disability would be enhanced to a sum of Rs.8,64,000/-. $[Rs.8,000 \times 12 \times 18(\text{multiplier}) \times 50\%(\text{disability})]$. Further,



C.M.A.No.1335 of 2017

a sum of Rs.10,000/- is added towards the Extra nourishment charges.

Likewise, the amount under the head of attender charges is enhanced to a sum of Rs.15,000/- and the amount under the head of future medical expenses is also enhanced to a sum of Rs.50,000/-. Accordingly, the re-worked compensation would be as follows:-

<i>Heads</i>	<i>Amount by the Tribunal in Rs.</i>	<i>Amount Awarded by this Court in Rs.</i>
Functional Disability	7,02,000	8,64,000
Pain and Suffering	1,00,000	1,00,000
Extra Nourishment	10,000	20,000
Transport to Hospital	20,000	20,000
Damages to clothes	1,000	1,000
Attender charges	6,500	15,000
Medical expenses	4,30,600	4,30,600
Future medical expenses	25,000	50,000
Loss of income	39,000	39,000
Loss of Amenities	25,000	25,000
Loss of marriage prospects	25,000	25,000
Total	13,84,100	15,89,600

6. The appeal is partly allowed and the impugned Award of the Tribunal is modified, enhancing the compensation amount from **Rs.13,84,100** to **Rs.15,89,600** The second respondent-Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.3382 of



C.M.A.No.1335 of 2017

2011 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimant is permitted to withdraw the award amount, along with accrued interest and costs as awarded by the Tribunal, less, the amount, if any already withdrawn, by filing necessary application before the Tribunal. The claimant is directed to pay the Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time as the certified copy showing proof of payment of Court fee has been produced by the claimant. In other respects, the Award of the Tribunal is hereby confirmed. There shall be no order as to costs in the present appeal.

10.10.2022

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6/8



C.M.A.No.1335 of 2017

1. The Motor Accident Claims Tribunal
(IV Judge, Court of Small Causes) at Chennai.
2. The Section Officer,
V.R.Section, High Court, Madras.



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C.M.A.No.1335 of 2017

P.T.ASHA, J.,

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C.M.A.No.1335 of 2017

10.10.2022