



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.No.3032 of 2018

S.Dhakshinamoorthy

...Appellant/Petitioner

Vs.

1.G.Sugumar

2.L.M.Kanam Palanisamy

3.United India Insurance Company Limited,
No.5, Periya Kadai Veethi,
Dharapuram,
Tiruppur District.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 to enhance the compensation amount awarded in the Fair and Final Order dated 27.08.2018 made in MCOP No.1235 of 2012 on the file of the Motor Accident Claims Tribunal, (Subordinate Judge) Dharapuram.

For Appellant : Mr.D.Raghu
for Mr.C.E. Pratap

For Respondents : Mr.S.Arunkumar (for R3)

JUDGMENT

[Judgment of the Court was delivered by V.SIVAGNANAM, J.]

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 27.08.2018, passed by the Motor Accidents Claims Tribunal, (Sub-Judge) Dharapuram in M.C.O.P.No.1235 of 2012.



2.This is the case of injury. The case of the claimant is that on 30.12.2011 at 08.30 p.m, he ride his Yamaha RX 135 motorcycle bearing Reg.No.TN-33-E-4242 on Erode - Vellakovil road and when he was nearing Muthaiyan valasu, a private bus bearing Reg.No.TN-42-Z-1099 driven by the first respondent in a rash and negligent manner, dashed against him. In the impact, the claimant fell down and sustained grievous injuries. Immediately, he was admitted at KMCH Erode for first aid and thereafter, he was taken to KG Hospital, Coimbatore and still underwent treatment there. Alleging that the accident had happened only due to the negligent driving of the driver of the bus, the claimant filed the claim petition. Though he claimed Rs.50,00,000/- as compensation, the Tribunal has awarded Rs.7,64,063/- together with interest at 7.5% per annum, under the following heads:-

Heads	Rs.
Permanent Disability (Rs.2000 x 30%)	60,000/-
Pain and Suffering	30,000/-
Medical Expenses	5,55,623/-
For Transportation	5,000/-
For Extra Nourishment	5,000/-
Loss of Income	1,03,440/-
For Attendant Charges	5,000/-
Total	7,64,063/-

3.The learned counsel appearing for the appellant/claimant would submit that after the accident, the claimant was admitted in hospital under unconscious stage and he was under treatment in Intensive Care Unit for more than two months and at that time, he was on ventilator support. He would further submit that as per Disability Certificate (Ex.P.8), the claimant suffered 65% permanent disability and brain damage, but the Tribunal without considering the same and by accepting 60% disability, has awarded Rs.60,000/- by applying Rs.2000/- per percentage. He would further submit that the amount awarded by the Tribunal is meager in all the heads, hence, the claimant is entitled for higher compensation.

4.Per contra, the learned counsel appearing for the third respondent Insurance Company submitted that the impugned



Judgment and Decree awarding the aforesaid compensation is well reasoned and it requires no interference and therefore, this Civil Miscellaneous Appeal is liable to be dismissed.

5.This Court carefully considered the submissions of the learned counsel for the appellant/claimant and the learned counsel appearing for the third respondent/Insurance Company and perused the materials available on record.

6.A perusal of the Discharge Summary (Ex.P.6) would show that the claimant suffered head injury, fracture in right clavicle and developed stiff person syndrome. Further, it is evident from the Disability Certificate (Ex.P.8) that the claimant suffered brain damage, which eventually resulted in speech disturbance. It is also seen that the claimant was inpatient for a period of 40 days. In the instant case, the Tribunal awarded Rs.60,000/- towards permanent disability by applying Rs.2000/- per percentage. In the latest decisions, this Court awards Rs.3,000/- per percentage. Further, the Tribunal has not awarded any amount under the head of loss of amenities. Therefore, considering the nature of the injuries and disability sustained by the claimant and period of treatment, the compensation awarded by the Tribunal to the appellant is enhanced as follows:-

Heads	Rs.
Permanent Disability (Rs.3000 x 30%)	90,000/-
Pain and Suffering	35,000/-
Medical Expenses	5,55,623/-
For Transportation	20,000/-
For Extra Nourishment	15,000/-
Loss of Income	1,03,440/-
For Attendant Charges	20,000/-
Loss of Amenities	25,000/-
Total	8,64,063/-
Rounded off	8,64,000/-

7.In such view of the matter, this Civil Miscellaneous Appeal is partly allowed. The third respondent/Insurance Company is directed to deposit the modified award amount with 7.5% accrued 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 order. On such deposit, the appellant/claimant is permitted to withdraw the amount, less the amount already withdrawn if any, by filing suitable application before the Tribunal. No costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

skn

To

1.The Motor Accidents Claims Tribunal,
The Subordinate Judge
Dharapuram.

+1 CC to Mr.D.Raghu, Advocate sr 2411

+1 CC to Mr.S.Arunkumar, Advocate sr 2467

C.M.A.No.3032 of 2018

SJ(CO)
SP(14/02/2022)