



C.M.A.No.95 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 23.01.2023	Pronounced on 22.02.2023
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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.95 of 2023

Jagan @ Jaganathan

... Appellant

Vs.

1.Saravanan
2.HDFC ERGO General Insurance Co. Ltd.,
Empire Arcade,
New Bus stand opposite,
Salem.

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against Judgment and Decree dated 25.08.2021 passed in M.C.O.P.No.404 of 2019 on the file of the Motor Accident Claim Tribunal, Special Subordinate Court No.I, Salem, and enhance the award amount.

For Appellant : Mr.M.Mohamed Riyaz

For Respondents (R2) : Mr.S.Balaji
for Mr.N.Somasundaar



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J U D G M E N T

The Appeal has been filed against the Judgment and Decree dated 25.08.2021 passed in M.C.O.P.No.404 of 2019 on the file of the Motor Accident Claim Tribunal, Special Subordinate Court No.I, Salem.

2.The Claim Petitioner is the appellant herein, seeking enhancement of compensation awarded in M.C.O.P.No.404 of 2019.

3.For the sake of convenience, the parties are referred to as their ranking before the trial Court.

4.The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the first respondent's vehicle, insured with the second 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 first respondent's vehicle, insured with the third respondent are hereby confirmed.



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5.On the point of quantum of compensation, both the parties have been heard. The claim petitioner has sustained grievous injuries in the road transport accident occurred on 23.12.2018. In result of the injuries, he has underwent Amputation Left Hand, Fracture in the Left Fore Arm, Left Foot and Thigh, Crush injuries all over the body. Hence, he filed a claim petition.

6.Before the Tribunal, he examined himself as PW1 and the Doctor, who treated the injured was examined as PW2 and Exs.P1 to P12 were marked and on behalf of the respondent no one was examined and no document was marked and Ex.C1/Disability Certificate issued by the Medical Board and Ex.C2/X-Ray were marked.

7.The Tribunal has awarded compensation of Rs.1,00,000/- towards pain and suffering, Rs.6,60,000/- towards Medical Expenses, Rs.30,000/- towards Transportation, Rs.30,000/- towards Nutrition and Extra Nourishment, Rs.40,000/- towards Attender Charges, Rs.1000/- towards Damages to Cloth, Rs.1,00,000/- towards Loss of Amenities, for fixing Artificial Limb Rs.1,00,000/- was awarded and for Permanent Disability and Loss of Earning



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Capacity Rs.19,27,800/- . In total Rs.29,88,800/- was awarded (Rs.10,500 x 12 x 18 x 85/100). The claim petitioner has preferred this appeal for enhancement of compensation.

8.The learned counsel for the appellant draw my attention to the multiplier method adopted by the Tribunal and directed the insurance Company to pay the compensation. Taking note of the injuries, amputation and fixation of artificial limb, the Tribunal has rightly fixed the disability at 85% and the deceased was aged about 22 years at the time of accident. Having satisfied with the criteria laid down by the Hon'ble Supreme Court in the case of ***Rajkumar Vs. Ajaykumar & another*** reported in ***2010 (2) TNMAC 581 SC***, the adoption of multiplier method for injury cases, multiplier method of “18” was rightly adopted by the Tribunal. The Tribunal has rightly fixed the notional income at Rs.7500/- adding 40% future prospects (Rs.7500/- + 3000 = Rs.10,500/-) and hence, the pecuniary loss sustained by the deceased was rightly assessed as under;

$$\text{Rs.10,500/-} \times 12 \times 18 \times 85/100 = \text{Rs.19,27,800/-}.$$



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9.After going through the award granted on various heads, I find that the award appears to be excessive. However, since it is a claimant appeal for enhancement, I find that the award passed by the Tribunal is slightly on higher side and it does not warrant any further enhancement.

10.Accordingly, the civil miscellaneous appeal is dismissed and the findings rendered by the Tribunal is hereby confirmed. No costs.

22.02.2023

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

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To

The Presiding Officer,
The Motor Accident Claim Tribunal, Special Subordinate Court No.I,
Salem.



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RMT.TEEKAA RAMAN.J,

ata

Pre-delivery Judgment made in

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Dated: 22.02.2023