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C.M.A.No.591



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2023

CORAM:

THE HONOURABLE MRS. JUSTICE N.MALA

C.M.A.No.591 of 2022

M.Kumaresan

... Appellant

Vs.

1.G.Janakiraman

2.Branch Manager

United India Insurance Company Limited

Branch Office No.20/1, K.M.R. Complex

1st floor, Bye pass road

Ambur, Vellore District – 635 802.

... Respondents

(1st respondent remained exparte before the Tribunal and hence, notice to the 1st respondent is dispensed with)

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 praying against the judgment and decree dated 06.06.2020 made in M.C.O.P.No.492 of 2018 on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Krishnagiri.

For Appellant : Mr.C.Ramaraj

For R2 : Mr.P.Sankaranarayanan



JUDGMENT

The appeal is filed by the appellant/claimant for enhancement of compensation granted by the Tribunal in the award dated 06.06.2020 made in M.C.O.P.No.492 of 2018 on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Krishnagiri.

2. The brief facts leading to the appeal are that, on 03.06.2016 at about 14.30 hours, while the appellant/claimant was travelling in a private bus bearing Registration No.TN 29 W 9225 from Krishnagiri to Hosur, near Melumalai Kanavai, the driver of the lorry bearing Registration No.KA 01 AC 1780 belonging to the 1st respondent drove the same in a rash and negligent manner, hit against the private bus, resulting in grievous injuries to the claimant. According to the claimant, he was aged 35 years at the time of accident and was earning Rs.15,000/- per month as a coconut stripper. The claimant therefore, filed Claim Petition claiming Rs.15,00,000/- as compensation for the injuries suffered by him in the accident.

3. The 1st respondent, owner of the lorry remained exparte before the Claims Tribunal. The 2nd respondent/Insurance Company contested the Claim Petition and filed a detailed counter denying all the averments made in the Claim Petition apart from denying the negligence, liability and quantum of compensation.



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4. Before the Claims Tribunal, in support of his claim, the claimant examined himself as P.W.1, employer of the claimant was examined as P.W.2 and one Krishnakumar was examined as P.W.3 and Exs.P1 to P11 were marked. The disability certificate issued by the Medical Board, was marked as Ex.C1. On the side of the respondents, neither any witness was examined nor any documentary evidence was marked.

5. The Claims Tribunal, on an assessment of the entire evidence on record, returned a finding of negligence against the driver of the lorry belonging to the 1st respondent, assessed the compensation at Rs.2,81,747/- along with 7.5% interest and mulcted the liability on the 2nd respondent/Insurance Company. Not satisfied with the quantum of compensation awarded by the Claims Tribunal, the appellant/claimant has filed the present appeal for enhancement of compensation.

6. Learned counsel for the appellant/claimant submitted that the Tribunal having adopted unit method, erred in fixing Rs.3,000/- only towards per percentage of disability. Relying on the judgment of this Hon'ble Court in the case of ***M.Chinnathambi Vs. S.Deepa*** reported in ***2020 (1) TN MAC 617***, the learned counsel submitted that the claimant was entitled to enhanced compensation under the head 'permanent disability'. Learned counsel further submitted that he did not have any serious issues on the award of the Tribunal towards other heads.



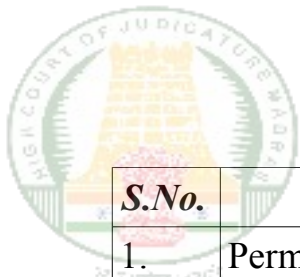
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7. Learned counsel for the 2nd respondent/Insurance Company on the other hand submitted that the award of the Tribunal was fair, just and reasonable and did not call for any interference in the appeal.

8. I have heard the learned counsel for the appellant and the learned counsel for the 2nd respondent and perused the materials placed on record.

9. It is seen from the records that the Medical Board assessed the disability of the claimant at 40%. The Tribunal awarded Rs.3,000/- per percentage of disability. In the case of *M.Chinnathambi Vs. S.Deepa* reported in **2020 (1) TN MAC 617**, this Hon'ble Court held that for accidents after 2015, a sum of Rs.5,000/- can be awarded. In this case, the accident occurred in the year 2016, therefore, following the aforesaid judgment, the award of the Tribunal towards permanent disability is modified to Rs.2,00,000/- (Rs.5,000/- X 40%). In my view, the award of the Tribunal under other heads are just and reasonable and therefore, the same are not interfered with.

10. In view of the above discussions, the award of the Tribunal is modified as follows:



<i>S.No.</i>	<i>Various Heads</i>	<i>Award of the Tribunal</i>	<i>Award of this Court</i>
1.	Permanent disability	Rs.1,20,000/-	Rs.2,00,000/-
2.	Transport, nutrition and attender charges	Rs.20,000/-	Rs.20,000/-
3.	Pain and suffering	Rs.32,000/-	Rs.32,000/-
4.	Loss of amenities and enjoyment of life	Rs.32,000/-	Rs.32,000/-
5.	Damages to clothing and loss of cash	Rs.1,000/-	Rs.1,000/-
6.	Partial loss of income	Rs.25,500/-	Rs.25,500/-
7.	Medical expenses	Rs.51,247/-	Rs.51,247/-
	Total Compensation	Rs.2,81,747/-	Rs.3,61,747/- Enhanced compensation amount Rs.80,000/-

The appellant/claimant is entitled to the total compensation of Rs.3,61,747/- along with interest at the rate of 7.5% per annum (excluding the default period, if any) from the date of petition till the date of deposit.

11. It is submitted by the learned counsel for the 2nd respondent/Insurance Company that the entire amount awarded by the Tribunal along with accrued interest and costs was already deposited before the Tribunal. In view of the said submission, there shall be a direction to the 2nd respondent/Insurance Company to deposit the balance enhanced compensation of Rs.80,000/- along with 7.5% interest and costs, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant/claimant shall be entitled to withdraw the same, by making proper application before the Claims Tribunal.



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12. The appeal is accordingly partly allowed. There shall be no order as to costs.

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

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To

1.Special Subordinate Judge
Motor Accidents Claims Tribunal
Krishnagiri.

2.The Section Officer,
V.R.Section,
High Court, Madras.



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N.MALA.J.,

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