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C.M.A.No.2178 of 2007

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2023

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

C.M.A.No.2178 of 2007

K.Santhanam

... Appellant/Petitioner

Vs.

1.G.Srinivasan

2.The New India Assurance Co. Limited,
No.45, More Street,
Chennai – 600 001.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and Decree dated 05.03.2004 made in M.C.O.P.No.200 of 2003 on the file of Motor Accidents Claims Tribunal, Fast Track Court No.IV, Additional District Judge, Poonamallee.

For Appellant : Mr.UM.Ravichandran

For Respondents : Notice dispensed with vide
order dated 12.06.2023 [R1]
M/s.C.Sangamithirai [R2]



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JUDGMENT

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The claimant is before this Court seeking an enhancement of the award passed by the Motor Accidents Claims Tribunal, Fast Track Court No.IV, Additional District Judge, Poonamallee in M.C.O.P.No.200 of 2006, dated 05.03.2004.

2. The facts in brief are as follows :-

(i) On 02.03.2003 at about 01.00 p.m., when the appellant was travelling in an auto bearing Reg.No.TN 04 W 0213 near Koyambedu Roundana from West to North direction, the driver of the lorry bearing Reg.No.TN 04 T 5677, which was owned by the first respondent, came from behind the auto, who drove the same in a rash and negligent manner and dashed against the auto, in which the appellant was travelling, thereby, the appellant sustained grievous injuries. Thereafter, the appellant had claimed a total compensation of a sum of Rs.10,00,000/-.

(ii) The first respondent remained *ex-parte* and it is only the second respondent/Insurance Company, who had contested the claim denying the liability to pay and also claimed that the accident was the result of the negligence on the part of the driver of the auto. The Tribunal, after



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considering the oral and documentary evidence, adduced by the claimant and the Insurance Company, awarded a sum of Rs.5,15,200/-. Challenging the same, the claimant is before this Court.

3. The learned counsel appearing for the appellant contended that, the per percentage disability awarded at Rs.1,000/- is on the lower side and the Tribunal ought to have fixed the per percentage disability at Rs.3,000/-. Accordingly, he prays for enhancement of the compensation towards loss of earning due to disability.

4. Per contra, the learned counsel appearing for the second respondent/Insurance Company submitted that, the Tribunal has rightly fixed the per percentage disability at a sum of Rs.1,000/-, which does not require any interference. Accordingly, he prays for dismissal of this appeal.

5. Heard the learned counsel appearing for the appellant as well as the second respondent and perused the materials available on record.



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6. It is borne from the records that the Tribunal has assessed disability at 50% and by adopting a sum of Rs.1,000/- per percentage for arriving at the compensation towards loss of earning due to disability, awarded a sum of Rs.50,000/-, which has to be enhanced by adopting a sum of Rs.3,000/- per percentage. Therefore, the amount under the head of loss of earning due to disability stands enhanced to a sum of Rs.1,50,000/- (50 x Rs.3,000/- = Rs.1,50,000/-).

7. In view of the above, the compensation awarded by the Tribunal is modified as under :-

<i>S.No.</i>	<i>Description</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
1	Loss of earning due to Disability	50,000.00/-	1,50,000.00/- (enhanced)
2	Loss of income for 6 years	4,08,000.00/-	4,08,000.00/-
3	Medical expenses	7,218.50/-	7,218.50/-
4	Pain & sufferings	50,000.00/-	50,000.00/-
		(5,15,218.50/-) rounded off to 5,15,200/-	(6,15,218.50/-) rounded off to 6,15,200/-

8. Accordingly, the appeal is partly allowed and the impugned award



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of the Tribunal is modified enhancing the compensation amount from **Rs.5,15,200/-** to **Rs.6,15,200/-**. The second respondent/Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.200 of 2003 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 (6) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant/claimant is permitted to withdraw the award amount, less, the amount, if any already withdrawn. The appellant/claimant is directed to pay the necessary Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time the certified copy showing proof of payment of Court fee is produced by the claimants. In other respects, the Award of the Tribunal is hereby confirmed. There shall be no order as to costs in the present appeal.

04.10.2023

Index : Yes / No
Speaking order / Nonspeaking order
Netrual Citation Case : Yes / No



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