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C.M.A.No.826 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.826 of 2021

P.Sivaperumal

... Appellant

Vs.

1.E.Govindan

2.Bajaj Allianz General Insurance Company Limited,
Rep. by its Manager,
GE Plaza, Airport Road,
Yerwade,
Pune – 411 006.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree dated 03.09.2020 made in M.C.O.P.No.612 of 2016 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Court, Dharmapuri.

For Appellant : Mr.D.Rameshkumar

For Respondents : R1 – No Appearance

Mr.E.Rajadurai

for M/s.M.B.Gopalan Associates for R2

J U D G M E N T

This appeal has been filed seeking to set aside the judgment



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and

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decree dated 03.09.2020 passed by the Motor Accident Claims Tribunal Special Subordinate Court, Dharmapuri, in M.C.O.P.No.612 of 2016.

2.The learned counsel appearing for the appellant submitted that on 17.07.2015 at about 17.00 hours, the appellant claimant was riding the Bajaj Discover motorcycle bearing Registration No.TN-29-AA-0781 along with his sister and her minor daughter from Paupparappatti to Moongappatti near Mattukarankottai Bore Pipe. At that time, a TATA ACE bearing Registration No.TN-29-AD-5303 belonging to the first respondent and insured with the second respondent came in a rash and negligent manner and hit against the motorcycle, due to which, the appellant sustained injuries.

3.The learned counsel appearing for the appellant further submitted that thereafter, the injured claimant/ appellant filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.20 Lakhs. After adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.7,82,351/- with interest at the



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rate of 7.5% p.a. from the date of petition till the date of deposit and proportionate costs and directed the second respondent to deposit the

compensation along with interest and proportionate costs and to recover the same from the first respondent.

4.The learned counsel appearing for the appellant further submitted that the Hon'ble Apex Court in Syed Sadiq case fixed a sum of Rs.6,500/- as notional monthly income of the vegetable vendor in the year 2008. In the present case, the accident took place during the year 2015, however, the Tribunal fixed the monthly income of the injured at Rs.6,000/- and awarded a meagre compensation and hence, the appellant claimant has filed this appeal for enhancement in compensation.

5.The learned counsel appearing for the second respondent Insurance Company submitted that the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference.



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6.Heard the learned counsel appearing for the appellant
claimant

as well as the learned counsel appearing for the second respondent Insurance Company and perused the materials available on record.

7.The accident and the manner in which the accident happened are not disputed. The concept of pay and recovery ordered by the Tribunal is also not disputed. This appeal has been filed only questioning the quantum of compensation.

8.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.1,95,840/- for just compensation, Rs.24,000/- for loss of earnings, Rs.20,000/- for permanent loss of amenities, Rs.40,000/- for pain and sufferings, Rs.30,000/- for cost of nourishment, Rs.10,000/- for cost of attender, Rs.3,92,211/- for medical expenses, Rs.69,300/- for transport expenses, Rs.1,000/- for loss of clothing on accident and arrived at a total compensation of Rs.7,82,351/- with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit.



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9.The Hon'ble Apex Court in Syed Sadiq case fixed a sum of Rs.6,500/- as notional monthly income of the vegetable vendor in the year 2008. In the present case, the accident took place during the year 2015, however, the Tribunal fixed the monthly income of the injured at Rs.6,000/-, which in the opinion of this Court is low and this Court fix the monthly income of the injured as Rs.12,000/-. The injured claimant suffer 16% permanent disability. Hence, the amount awarded for just compensation works out to Rs.3,91,680/- [$\text{Rs.12,000/-} \times 12 \times 17 = \text{Rs.24,48,000/-}$, 16% of Rs.24,48,000/- = Rs.3,91,680/-]. This Court is of the opinion that some amount has to be awarded for future prospects. Accordingly, this Court awards 40% of just compensation for future prospects and the same works out to Rs.1,56,672/- [40% of Rs.3,91,680/- = Rs.1,56,672/-].

10.The amount awarded under the head pain and sufferings, in the opinion of this Court is low and hence, the amount awarded under the head pain and sufferings is enhanced to Rs.50,000/- from Rs.40,000/-. The amount awarded by the Tribunal under the heads loss of earnings and permanent loss of amenities, in the opinion of



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this Court are not necessary and the same are deleted. The amount awarded under the other heads, in the opinion of this Court are just and reasonable and the same are confirmed.

11. Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Just compensation	Rs.1,95,840/-	Rs.3,91,680/-
2.	Loss of earnings	Rs. 24,000/-	---
3.	Permanent loss of amenities	Rs. 20,000/-	---
4.	Pain and sufferings	Rs. 40,000/-	Rs. 50,000/-
5.	Cost of Nourishment	Rs. 30,000/-	Rs. 30,000/-
6.	Cost of Attender	Rs. 10,000/-	Rs. 10,000/-
7.	Medical expenses	Rs.3,92,211/-	Rs.3,92,211/-
8.	Transport expenses	Rs. 69,300/-	Rs. 69,300/-
9.	Loss of clothing on accident	Rs. 1,000/-	Rs. 1,000/-
10.	Future prospects	---	Rs.1,56,672/-
	Total	Rs.7,82,351/-	Rs.11,00,863/-

12. The appellant claimant is entitled to total compensation of Rs.11,00,863/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit. The pay and recovery ordered by the Tribunal is confirmed.

13. The civil miscellaneous appeal is allowed on the above



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terms. The judgment and decree of the Motor Accident Claims Tribunal, Special Subordinate Court, Dharmapuri in M.C.O.P.No.612 of 2016 dated 03.09.2020, is modified to the above extent only in respect of the quantum of compensation. No costs.

14.The second respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal within a period of four weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such deposit being made, the appellant/ claimant is permitted to withdraw the modified/ enhanced award amount, along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellant/ claimant shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The appellant/ claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accident Claims Tribunal, Special Subordinate Court, Dharmapuri, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellant/ claimant.



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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

M.DHANDAPANI,J.

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To

1.The Motor Accidents Claims Tribunal,
Special Subordinate Court, Dharmapuri.

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