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C.M.A.No.193 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2023

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THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.193 of 2019

G.Vijayakumar

.. Appellant

Vs.

1. M/s.Sri Raja Rajeswari Lorry Service
Thayar Sahib Street, Mount Road
Madras-2.

2.The Oriental Insurance Company Limited
Divisional Office, Cherry Road
Salem-1.

3.V.R.Ragunathan

..Respondents

Prayer: The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the Award dated 29.11.2001 made in MCOP No.771 of 1997 on the file of the Motor Accident Claims Tribunal/I Additional District Judge cum Chief Judicial Magistrate, Salem.



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For Appellant : Mr.K.Selvaraj

For Respondents : Mr.M.Krishnamoorthy for R2

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J U D G M E N T

The Award dated 29.11.2001 passed in MCOP No.771 of 1997 on the file of the Motor Accident Claims Tribunal/ I Additional District Judge cum Chief Judicial Magistrate, Salem, is under challenge in the present Civil Miscellaneous Appeal.

2. The Motor Accidents Claim Tribunal, under the impugned award, has awarded a compensation of Rs.1,11,130/- together with interest and costs to the Appellant/claimant which is detailed hereunder:

<i>Heads</i>	<i>Award Amount (Rs.)</i>
Medical Expenses	47,130/-
Pain and suffering	5,000/-
Permanent disability	49,000/-
Marital Life affected	10,000/-
Total	1,11,130/-

3. Before the Tribunal, the Appellant/claimant has filed 9 documents



which were marked as Ex.P1 to Ex.P9 and examined himself as PW1 and the Doctor, who examined the claimant as PW2. On the side of the 2nd respondent/Insurance Company, neither any document was filed nor any witness examined before the Tribunal. The 1st respondent/owner of the vehicle was set exparte.

4. The learned counsel appearing on behalf of the appellant mainly contended that the compensation awarded by the Motor Accident Claims Tribunal is not in commensuration with the grievousness of the injuries sustained by the appellant/claimant. The appellant/claimant sustained grievous injuries and dislocation of left elbow due to the accident and had taken treatment as inpatient for a period of one month. After the accident, the appellant could not lift any things with the help of his left hand and the permanent disability caused to the appellant would definitely affect his marriage. He further contended that the Tribunal has failed to award any amount under the heads of extra nourishment and damage to cycle and also the compensation awarded under the heads of pain and suffering and martial



life affected is very meagre and hence, he prays to enhance the award.

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5. The learned counsel appearing on behalf of the second respondent/Insurance Company disputed the said contention of the appellant/claimant by stating that based on the oral and documentary evidence adduced, the Tribunal has rightly awarded a reasonable compensation and therefore, there is no need to interfere with the said finding of the Tribunal. Thus, the award given by the Tribunal is to be confirmed and the appeal is to be dismissed.

6. The accident occurred on 08.03.1997 at about 4.30 p.m at Salem to Sankari Road, near Thiruchengode - Erode Road, near Kakkapalayam Mani Gounder hoyse. The Macdonald Choultry police station registered a case in Crime No.290 of 1997 under Sections 279 and 338 of IPC. The appellant/claimant sustained grievous injuries viz., i) crush injury on right hand, ii) dislocated bone, loss of 3 fingers, iii) left elbow dislocated, right tibia fracture. The Tribunal adjudicated the issues with reference to the



documents and evidences produced by the respective parties. The negligence was attributed against the driver of the lorry, which belongs to the 1st respondent herein. The findings of the Tribunal is that the lorry driver had driven the vehicle in a rash and negligent manner which resulted in an accident.

7. A perusal of Ex.P3 discharge summary would reveal that the appellant/claimant sustained grievous injuries viz., i) crush injury on right hand, ii) dislocated bone, loss of 3 fingers, iii) left elbow dislocated, right tibia fracture and he had taken treatment at Gobi Memorial Hospital, Salem for about one month. The learned counsel for the appellant/claimant mainly contended that after the accident, his left thumb has been removed and due to which, the appellant could not lift any things with the help of his left hand. In such circumstances, the compensation awarded by the Tribunal under the head of pain and suffering is very low. Hence, considering the period of treatment, nature of injury and the age of the claimant, pain and suffering is enhanced to Rs.10,000/- which would be reasonable. The



Tribunal has not awarded any amount under the head of extra nourishment and damages to cycle. In the considered view of this Court, it would be appropriate to award a compensation of Rs.5,000/- towards extra nourishment and Rs.1000/- towards damages to cycle.

8. Insofar as the other heads of the compensation are concerned, the assessment of the compensation under the said heads by the Tribunal is a just compensation and it does not call for any interference by this Court.

9. For the foregoing reasons, the award passed by the Tribunal is modified as follows:

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Award Amount by this Court (Rs.)</i>
Medical Expenses	47,130/-	47,130/-
Pain and suffering	5,000/-	10,000/-
Permanent disability	49,000/-	49,000/-
Marital Life affected	10,000/-	10,000/-
Extra Nourishment	Nil	5,000/-



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<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Award Amount by this Court (Rs.)</i>
Damage to cycle	Nil	1,000/-
Total	1,11,130/-	1,22,130/-

Accordingly, the claimant is entitled to a compensation of Rs.1,22,130/- (Rupees one lakh twenty two thousand one hundred and thirty only) along with interest at the rate of 9% per annum from the date of claim petition till the date of realization.

10. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed and the award passed by the Tribunal is enhanced from Rs.1,11,130/- to Rs.1,22,130 /-. No costs.

(ii) The second respondent/insurance company is directed to deposit the revised compensation of Rs.1,22,130/- with interest at the rate of 9% p.a. from the date of claim petition till the date of realization, less the amount if already deposited, within a period of six weeks from the date of receipt of a



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copy of this judgment.

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Index : Yes/No
Speaking Order/Non-Speaking Order
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To

- 1.The Motor Accident Claims Tribunal,
I Additional District Judge cum
Chief Judicial Magistrate
Salem.
- 2.The Section Officer,
V.R Section,
High Court, Madras.

A.A.NAKKIRAN, J.
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