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C.M.A.No.4392 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2023

CORAM :

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

C.M.A.No.4392 of 2019

Saravanan

... Appellant

Vs.

1.Hariff

[since R1 remained exparte before the Tribunal,
his present may be dispensed with]

2.The Divisional Manager,

The United India Insurance Company Limited,

TP Claims Hub,

No.81, Katpadi Road,

T.K.M. Complex,

2nd Floor, Vellore.

... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 06.01.2018 and made in M.A.C.T.O.P.No.244 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Tiruvannamalai.

For Appellant : Mr.F.Terry Chella Raja

For Respondents : Exparte [R1]

Mr.M.J.Vijayaraghavan [R2]



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JUDGMENT

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The claimant before the Motor Accident Claims Tribunal, Special Sub Court, Tiruvannamalai in M.A.C.T.O.P.No.244 of 2017, is the appellant before this Court challenging the award passed by the Tribunal, dated 06.01.2018.

2. As per the claim petition, on 20.12.2016 at about 08.15 p.m., when the claimant was about to cross the road after getting down from the bus, the Car bearing Reg.No.TN 73 W 5731 driven by its driver in a rash and negligent manner, dashed against the claimant, which resulted in the claimant sustaining fracture on the right shoulder, right hand, right thigh and also grievous injuries all over the body. Thereafter, the claimant was admitted in the Government Thiruvannamalai Medical College and Hospital and had taken treatment and thereafter, taken treatment on the private hospital. Therefore, he filed a claim petition claiming a sum of Rs.20,00,000/- before the Tribunal.

3. Before the Tribunal, the claimant examined himself as P.W.1 and examined the doctor as P.W.2 and marked Ex.P.1 to Ex.P.11. No



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witnesses were examined nor any documents were marked on the side of the respondents. The Medical Report has been marked as Ex.C.1 before the Tribunal. After adjudication, the Tribunal awarded a sum of Rs.12,58,143/- under various heads. Not satisfied with the same, the claimant has preferred the present appeal seeking enhancement.

4. The learned counsel appearing for the appellant/claimant submits that the compensation awarded under the various heads are meagre and not commensurate with the injuries suffered by the claimant. It is the further submission of the learned counsel that the medical expenses relating to the treatment taken by the claimant as inpatient in the private hospital, which have been marked as Ex.P.14 and Ex.P.15 have not been given. Over all, it is submitted that the compensation awarded under various heads requires to be enhanced.

5. Per contra, the learned counsel appearing on behalf of the second respondent/insurance company submitted that, the compensation awarded by the Tribunal under various heads are just and reasonable. However, the learned counsel fairly submitted that insofar as the medical bills are



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concerned, which have been marked before this Court viz., Ex.P.14 and Ex.P.15, this Court may grant compensation of the actual medical expenses.

6. Heard the learned counsel appearing for the appellant and the learned counsel appearing on behalf of the third respondent and perused the materials available on record.

7. The factum and manner of the accident is not in dispute. In the said accident, the claimant had suffered fractures and grievous injuries all over the body and had taken treatment at the hospital. Before the Tribunal, the medical records and also the medical bills relating to the treatment take as inpatient have not been marked and on the petition by the claimant, this Court in C.M.P.No.24979 of 2019, had permitted the marking of the said documents and the documents have been marked as Ex.A.12 to Ex.A.16. The Tribunal has awarded compensation under various heads, which according to the claimant are meagre. However, a careful perusal of the same reveals that the compensation awarded under the transport expenditure, future medical expenses, attender charges, pain and



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sufferings and extra nourishment are reasonable and the same cannot be stated that they are meagre as the Tribunal has given reasonable compensation.

8. Further, the Tribunal has fixed the functional disability of the appellant at 60%. In fact, the fixation of percentage of disability is also not disputed. Based on the percentage of disability, the Tribunal has adopted multiplier method and had arrived at a compensation of Rs.10,89,584/-. Though the learned counsel appearing on behalf of the insurance company submitted that the adoption of multiplier method is erroneous and the Tribunal should have granted compensation by adopting percentage method, however, the said contention cannot be accepted for the reasons that the over all percentage of disability is on the higher side and the nature of the injuries suffered and the extent of the disability would really hamper the claimant from discharging his work as a painter. Therefore, considering the said fact that there would be difficulty for the claimant to earn the normal living as he had done prior to the accident. The Tribunal had adopted multiplier method and arrived at the compensation. The procedure adopted by the Tribunal cannot be found fault with and this



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Court in agreement with the adoption of multiplier method. Accordingly, the said compensation is confirmed. As stated above the medical bills relating to the treatment taken by the claimant as inpatient had not been placed before the Tribunal, which has resulted in medical expenses to the tune of Rs.3,359/- alone being awarded. As stated above, the medical records including the medical bills have been submitted before this Court and they have been marked as Ex.P.12 to Ex.P.16. Ex.P.14 and Ex.P.15 are the medical bills relating to the treatment taken by the claimant as inpatient. As fairly submitted by the learned counsel for the insurance company, the medical bills were perused by the learned counsel as well and the appellant/insurance company has no quarrel in admitting the said bills and also awarding the compensation of Rs.66,151.72/-.

9. In view of the same, based on Ex.A.14 and Ex.A.15, this Court awards a sum of Rs.33,000/- towards inpatient bills and Rs.33,151.72/- towards medical bills.

10. In the above circumstances, the compensation awarded by the Tribunal is modified as under :



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<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	Functional Disability (60%)	10,90,584/-	10,90,584/-
2	Medical Expenses	3,359/-	3,359/-
3	Transportation Expenses	9,200/-	9,200/-
4	Future Medical Expenses	25,000/-	25,000/-
5	Attender Charges	20,000/-	20,000/-
6	Pain and Sufferings	1,00,000/-	1,00,000/-
7	Extra Nourishment	10,000/-	10,000/-
8	Inpatient bills		30,000/-
9	Medical bills		33,151.72/-
	Total	12,58,143/-	13,21,294.72/-
	Rounded off	12,58,143/-	13,21,300/-

11. Accordingly, the appeal is partly allowed and the impugned award of the Tribunal is modified, enhancing the compensation amount from **Rs.12,58,143/-** to **Rs.13,21,300/-**. The second respondent/Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.244 of 2017 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 Tribunal is directed to transfer the award



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amount directly to the bank account of the appellant/claimant through RTGS within a period of two (2) weeks thereafter upon production of proof with regard to payment of Court fee on the enhanced compensation by the appellant. There shall be no order as to costs in the present appeal.

24.11.2023
(2/2)

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To

- 1.The Motor Accident Claims Tribunal, Special Sub Court, Tiruvannamalai.
- 2.The Section Officer, V.R.Section, High Court, Madras.



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M.DHANDAPANI, J.,

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C.M.P.No.24979 of 2019
in C.M.A.No.4392 of 2019

M.DHANDAPANI, J.

This petition has been filed seeking to receive the additional documents like 1) Discharge Summary issued by Pondicherry Institute of Medical Sciences admitted from 19.12.2017 to 19.01.2018, 2) Discharge Summary issued by Pondicherry Institute of Medical Sciences admitted from 21.01.2018 to 29.01.2018, 3) Inpatient Bill for a sum of Rs.33,000/, 4) Medical Bills for a sum of Rs.33,151.72/- and 5) Lab Report of Sri Manakula Vinayagar Medical College and Hospital in C.M.A. against the judgment and decree dated 06.01.2018 and made in M.A.C.T.O.P.No.244 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Tiruvannamalai.

2. Heard the learned counsel for the petitioner.

3. Mr.M.J.Vijayaraghavan, learned counsel for the first respondent has no objection for this petition being ordered.



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4. Being satisfied with the reasons stated in the affidavit filed in support of the petition, this petition is ordered and the additional documents are marked as follows :-

<i>S.No.</i>	<i>Documents</i>	<i>Marked as</i>
1	Discharge Summary issued by Pondicherry Institute of Medical Sciences admitted from 19.12.2017 to 19.01.2018	Ex.A.12
2	Discharge Summary issued by Pondicherry Institute of Medical Sciences admitted from 21.01.2018 to 29.01.2018	Ex.A.13
3	Inpatient Bill for a sum of Rs.33,000/-	Ex.A.14
4	Medical Bills for a sum of Rs.33,151.72/-	Ex.A.15 (series 1 to 54)
5	Lab Report of Sri Manakula Vinayagar Medical College and Hospital	Ex.A.16 (series 1 to 3)

24.11.2023

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Copy to:

The Section Officer,
VR Section, Madras High Court.

C.M.P.No.24979 of 2019

in

C.M.A.No.4392 of 2019

(¹/₂)