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C.M.A.No.843 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.06.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

CMA.No.843 of 2023

Pazhani

...Appellant

Vs.

1.M/s. Bharat Tours and Travels,
No.222, A3, Trichy Road,
Palladam, Tiruppur,
Coimbatore-641 664.

2.The Manager,
The New India Insurance Co. Ltd.,
Palladam Branch, No.93, G1, Trichy Road,
Corporation Bank Mel Madi,
Palladam-641 664.

...Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, challenging the Judgment and Decree passed in M.C.O.P. No.4863 of 2017 dated 08.11.2022 on the file of Motor Accidents Claims Tribunal, VI Small Causes Judge, Chennai.

For Appellant : Mr.Mukund R. Pandiyan
For R-2 : Mr.J. Chandran



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JUDGMENT

This appeal is filed challenging the Award and Decree passed in M.C.O.P. No.4863 of 2017 dated 08.11.2022 on the file of Motor Accidents Claims Tribunal, VI Small Causes Judge, Chennai.

2. The appeal is filed by the claimant seeking enhancement of compensation.

3. The brief facts leading to the filing of the above appeal as follows:

On 04.05.2017 at about 8.00 p.m, when the claimant was driving tractor, a bus belonging to the first respondent, driven by its driver in a rash and negligent manner, dashed against the tractor, due to which, the claimant lost his control and dashed against the lorry which was parked near the road, on account of which, the claimant sustained grievous injuries. The claimant therefore filed claim petition before the Claims Tribunal seeking compensation of Rs.20,00,000/- for the injuries sustained by him in the accident.

4. Before the Claims Tribunal, the claimant examined himself as P.W.1 and Ex.P.1 to Ex.P.16 were marked. On the side of the respondents, no witness was examined and no documents were marked. The disability certificate was marked as Ex.C.1.



5. The Claims Tribunal on an assessment of the evidence on record awarded Rs.2,86,850/- along with 7.5% interest as compensation. Not satisfied with the compensation awarded, the claimant has filed the above appeal.

6. The learned counsel for the claimant submitted that the Claims Tribunal erred in adopting unit method, as the claimant had sustained grievous injuries and had lost his right eye in the accident. The learned counsel further submitted that the appellant was an agriculturist and on account of loss of vision in the right eye, he was not able to do his agricultural work as before. The learned counsel therefore submitted that there was functional disability due to the loss of vision and other injuries. The learned counsel further submitted that the award under the other heads passed by the Claims Tribunal, was meager and deserved to be enhanced.

7. The learned counsel for the second respondent on the other hand, submitted that the award passed by the Claims Tribunal was just, fair and reasonable and did not call for any interference by this Court.

8. I have heard both the learned counsels and have perused the materials placed on record.

9. It is seen that the claimant lost vision in his right eye due to the injuries



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sustained by him in the accident and therefore it could not be said that there was no functional disability. The claimant was an agriculturist and therefore loss of vision would definitely affect his earning capacity.

10. I therefore find that this is a fit case for adopting multiplier method. The permanent disability was assessed at 43% by the Medical Board and the same is also taken as functional disability. I am in agreement with the contentions of learned counsel for the claimant that considering the nature of injuries sustained by the claimant, the award under the other heads needs to be enhanced. Therefore the award of the Claims Tribunal is modified as follows.

<i>S.No.</i>	<i>Various Heads</i>	<i>Award by Tribunal (amount in Rs.)</i>	<i>Award by this Court (amount in Rs.)</i>
1.	Medical expenses	14,807/-	14,807/-
2.	Transport charges	8,000/-	25,000/-
3.	Extra Nourishment	7,000/-	35,000/-
4.	Attender Charges	10,000/-	25,000/-
5.	Loss of Amenities	Nil	1,00,000/-
6.	Loss of Permanent Disability	1,72,000/-	8,51,400/- (15,000 x 12 x 11 x 43/100)
7.	Loss of Income	60,000/-	Nil
8.	Pain and Suffering	15,000/-	50,000/-
Total		2,86,850/-	11,01,207/-

11. The appellant is entitled to enhanced compensation of Rs.11,01,207/-



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along with 7.5% interest from the date of claim petition till the date of payment.

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12. It is submitted by the learned counsel for the appellant that the second respondent/Insurance company deposited the entire award amount before the Claims Tribunal and the same has not been withdrawn till date.

13. In the light of the said submission, a direction is issued to the second respondent/Insurance company to deposit the enhanced compensation, less amount, if any, already deposited, along with 7.5% interest within a period of six(6) weeks from the date of receipt of copy of this Judgment. On such deposit being made by the Insurance Company before the Tribunal, the Tribunal is directed to credit the compensation to the Bank account of the claimant by following the Division Bench decision of this Court vide order dated 11.03.2016 made in C.M.A.No.428 of 2016, reported in 2016(2) LW 561 (Madras) (Division Bench) in the case of *The Divisional Manager, The Oriental Insurance Co. Ltd., Kannur Vs. Rajesh & Others*.

14. Registry is directed not to draft the decree unless the deficit Court fee is



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paid for the enhanced amount of compensation.

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In the result, this Civil Miscellaneous Appeal is allowed. There shall be no order as to costs.

09.06.2022

dsn

Index: Yes/No

Speaking Order: Yes/No

Neutral citation: Yes/No

To

1.The VI Judge, Small Causes Court,
Motor Accidents Claims Tribunal,
Chennai.

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



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N.MALA.J.,

dsn

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