



C.M.A.No.753 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:16.03.2023

CORAM:

THE HON'BLE Mr.JUSTICE A.A.NAKKIRAN

CMA.No.753 of 2013

Nagendran @ Sekar

... Appellant

..VS..

1.S.Ravichandran

2.The United India Insurance Co.,Ltd.,

Motor III Party Claims Office,

No.38, Anna Salai, Chennai -2.

... Respondents

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 20.07.2004 made in MCOP.No.3963 of 2001 on the file of the Motor Accident Claims Tribunal (V Judge, Court of Small Causes, Chennai).

For Appellant : Ms.Jayanthi

For Respondents : Mr.S.Arunkumar for R2

Ex parte – R1

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the claimant/appellant seeking enhancement of compensation against the judgment and decree dated 20.07.2004 made in MCOP.No.3963 of 2001 on the file of the Motor Accident Claims Tribunal (V Judge, Court of



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Small Causes, Chennai).

2. The case in brief is that on 27.07.1998 at 04.00 p.m., when the claimant was travelling as a pillion rider in motor cycle TN-09-W-4321 towards Ennore, Ernavur, a lorry TNL-6683 driven by its driver in a rash and negligent manner, coming from beach side, dashed against the motor cycle, due to which, he sustained grievous injuries all over the body. Since the accident has happened only due to the rash and negligent driving of the lorry by its driver, both the respondents, owner of the vehicle and insurer of the lorry, are jointly liable to pay the compensation as claimed by the claimant. Claiming that the driver of the lorry had caused the accident and the second respondent is liable to pay compensation, claim petition came to be filed claiming a sum of Rs.2,50,000/- as compensation before the Tribunal. On consideration of the materials and evidence available on record, the Tribunal has awarded a total compensation of Rs.90,900/- with interest at the rate of 9% per annum from the date of the petition till the date of deposit. Questioning the quantum of compensation awarded by the Tribunal, the appellant has



3. The learned counsel for the appellant/claimant has submitted that the award passed by the Tribunal is contrary to law, weight of evidence ad probabilities of the case. The Tribunal ought to have awarded Rs.60,000/- under the head of “compensation for pain and suffering” instead of awarding Rs.10,000/-. It ought to have awarded Rs.2,00,000/- under the head of 'compensation of loss of earing power' instead of awarding Rs.20,000/- only. It ought to have awarded Rs.1,20,000/- under the head of 'compensation for continuing of permanent disability if any'. In any event, the quantum of compensation granted by the Tribunal is very meagre. Hence, he prays for enhancement of the award of the Tribunal.

4. Per contra, the learned counsel for the second respondent has submitted that the Tribunal has granted reasonable compensation under



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various heads and no modification needs to be granted. Hence, he prays for the dismissal of the appeal.

5. The Tribunal, based on the oral and documentary evidences, has awarded a sum of Rs.90,900/- (**But the actual total is Rs.1,00,900/-**). as total compensation payable by the second respondent to the claimant under the following heads:

Heads	Award Amount (Rs.)
Pecuniary loss	10800/-
Pain and Sufferings	20000/-
Transport Expenses	3000/-
Extra Nourishment	3,000/-
Medical Expenses	4100/-
Permanent disability	40,000/-
Loss of earning power	20,000/-
Total	Rs.1,00,900\-

But the Tribunal has wrongly awarded Rs.90,900/-

6. Heard the learned counsel for the appellant and the learned second counsel for the respondent. Perused the materials available on record.



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7. A perusal of the records would reveal that the claimant has sustained fracture L2, L3, abrasion over the lower end of right forearm, contusion over the right shoulder, abrasion both the knee joints, contusion over the infraorbital region, facial injuries disfiguration of face and other serious multiple injuries all over the body. PW3/Doctor in Ex.P7/Disability certificate has assessed the permanent disability of the claimant at 40%. Due to the injuries sustained, the claimant was admitted as in-patient at Sugam Hospital, Chennai-19 from 27.07.1998 to 01.08.1998 and still continues his treatment as out-patient. Therefore, considering the nature of the injuries sustained by the claimant and the period of treatment, this Court is inclined to enhance the compensation under the head of pain and sufferings to Rs.30,000/-. Accordingly, in view of the modification, the award granted under the pain and sufferings is enhanced to Rs.30,000/- by this Court instead of Rs.20,000/- as assessed by the Tribunal.



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8. A perusal of the judgment of the Tribunal would go to show that it has taken into consideration the documents and has awarded Rs.3000/- towards Transportation; Rs.3000/- towards Extra Nourishment; Rs.10,800/- towards pecuniary loss; Rs.4,100/- towards medical expenses; Rs.40,000/- towards disability and Rs.20,000/- towards loss of earning power, which in the opinion of this Court, are based on evidences on record and hence the said amounts awarded under these heads are confirmed as such. Thus, the break-up details of the modified compensation are as follows:

Heads	Award Amount (Rs.)
Pecuniary loss	10800/-
Pain and Sufferings	30000/-
Transport Expenses	3000/-
Extra Nourishment	3,000/-
Medical Expenses	4100/-
Permanent disability	40,000/-
Loss of earning power	20,000/-
Total	Rs.1,10,900\-

9. In the result, the Civil Miscellaneous Appeal filed by the



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appellant is partly allowed by enhancing the total compensation from Rs.1,00,900/- to **Rs.1,10,900/-**, which is payable with interest at the rate of 9% per annum from the date of petition till the date of deposit. The claimant is entitled to interest on the enhanced amount of Rs.10000/- from the date of numbering the appeal (i.e., from the year 2013).

10. The second respondent/Insurance Company shall deposit the enhanced compensation amount, as awarded by this Court, less the amount already deposited, if any, within a period of six 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 amount along with accrued interest as per the order of this Court to the appellant/claimant through RTGS within a period of two weeks thereafter. No costs.

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Index : yes/No
Internet: Yes/No
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A.A.NAKKIRAN., J.

gv

To

1. The Motor Accident Claims Tribunal,
(V Judge, Court of Small Causes, Chennai).
2. The Section Officer,
V.R.Section,
Madras High Court,
Chennai-104.

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