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C.M.A.No.444 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.06.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

CMA.No.444 of 2022

Selvaraju

... Appellant

Vs.

1.Manickam

2.Ravi

3.The United India Insurance Co., Ltd.,
Ranga Buildings, 104-A, Floor No.2,
Peramanur Main Road, Four Roads,
Salem-636 007.

... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 praying to enhance the award in the order dated 04.12.2021 made in M.A.C.T.O.P.No. 904 of 2020 on the file of the Motor Vehicle Accident Claims Tribunal/ Special Subordinate Judge No-I, Salem.

For Appellant : Mr.C.Paraneedharan

RR1 and 2 : Ex-parte

For R-3 : Mr.C. Paranthaman



C.M.A.No.444 of 2022

JUDGMENT

This appeal is filed to enhance the award in the order dated 04.12.2021 made in M.A.C.T.O.P.No. 904 of 2020 on the file of the Motor Accidents Claims Tribunal/ Special Subordinate Judge No-I, Salem.

2. The claimant has filed the above appeal for enhancement of compensation.

According to the claimant, on 03.07.2020, while he was riding his scooter, bearing Reg.No. TN 28 BA 6112, the driver of a Chaverolet car bearing Reg.No. TN 30 AC 5455 drove the vehicle in a rash and negligent manner and dashed against the claimant vehicle, due to which, the claimant sustained grievous injuries. According to the claimant, he was aged 52 years at the time of accident and as a Elementary School Teacher, he was earning a sum of Rs.72,000/- per month. The claimant therefore filed a claim petition claiming a sum of Rs.50,00,000/- as compensation.

3. The first and second respondents remained ex-parte before the Claims Tribunal and the claim petition was contested by the third respondent/Insurance Company.

4. The third respondent/ Insurance company, in its counter affidavit, denied all the averments made in the claim petition, apart from disputing the negligence,



quantum and liability.

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5. Before the Claims Tribunal, the claimant examined himself as P.W.1 and marked Ex.P.1 to Ex.P.21 in support of his case. The third respondent/Insurance company did not adduce any oral evidence, but marked one document, Ex.R.1. The disability certificate issued by the Medical Board was marked as Ex.C.1.

6. The Claims Tribunal, on an assessment of entire evidence on record, rendered a finding of negligence against the first respondent, the driver of the Chevrolet car.

7. The Claims Tribunal assessed the compensation at Rs.1,91,538/- along with 7.5% interest and mulcted the liability on the third respondent/ Insurance company, who is the insurer of the second respondent's vehicle. Not satisfied with the award passed by the Claims Tribunal, the claimant has filed the above appeal seeking for enhancement of compensation.

8. The learned counsel for the appellant submitted that the award of the Claims Tribunal under various heads was meagre and the amounts need to be enhanced. The learned counsel further submitted that the Tribunal failed to note



C.M.A.No.444 of 2022

that the claimant suffered head injuries and was hospitalised for 12 days. The learned counsel therefore submitted that considering the nature of the injuries sustained by the claimant and the hospitalisation period, the compensation towards the heads pain and suffering, transportation charges, nutritious food, attender and loss of amenities need to be enhanced.

9. The learned counsel for the third respondent/Insurance company 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.

10. I have heard both the learned counsel and have perused the materials placed on record.

11. The Claims Tribunal, on the basis of Ex.C.1, disability certificate, assessed the disability at 10%. The nature of injuries sustained by the claimant as per Ex.C.1 are as follows :

"Diagnosis and treatment: Head injury- # temporal bone/ conservative Rx.

Multiple SDH/SAH

(R) Zygomatic arch

(R) clavicle - ORIF (R) clavicle

2 - 8 ribs (R) - ICD done"



C.M.A.No.444 of 2022

The Medical Board, for the above injuries, assessed the disability at 10% . The Claims Tribunal relied on the Judgment of this Court in the case of *M.Chinnathambi Vs. S.Deepa* reported in 2020 (1) TN MAC 617 and awarded Rs.5000 per percentage of disability. Hence, I find no infirmity in the award of Rs.50,000/- towards permanent disability assessed by the Claims Tribunal.

12. As far as compensation towards the other heads are concerned, it is seen that the claimant was hospitalised for 12 days and therefore in my view, the claimant would be entitled to enhanced sums towards attender charges, transportation and nutritious food. With respect to the other heads, the award of the Claims Tribunal is confirmed.

13. In the above said discussion the award of the Claims Tribunal is modified as follows.

S.No.	Various Heads	Award by Tribunal (amount in Rs.)	Award by this Court (amount in Rs.)
1.	Pain and Suffering	25,000/-	30,000/-
2.	Medical expenses	65,538/-	65,538/-
3.	Transportation charges	10,000/-	15,000/-
4.	Nutritious food	10,000/-	15,000/-
5.	Attender charges	10,000/-	15,000/-
6.	Damages to clothes	1,000/-	1,000/-
7.	Loss of amenities	20,000/-	25,000/-
8.	Permanent disability	50,000/-	50,000/-
Total Compensation		1,91,538/-	2,16,538/-



C.M.A.No.444 of 2022

The claimant is entitled to Rs.2,16,538/- as enhanced compensation along with 7.5% interest.

14. It is submitted by the learned counsel for the appellant that award of the Tribunal has not been deposited by the third respondent/Insurance Company. In view of the said submission, a direction is issued to the third respondent to deposit the enhanced compensation 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, the claimant is entitled to withdraw the entire amount.

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

14.06.2023

dsn

Index: Yes/No

Speaking Order: Yes/No

Neutral citation: Yes/No



C.M.A.No.444 of 2022

To

The Special Subordinate Judge No-I,
Motor Accident Claims Tribunal,
Salem.

Copy to
The Section Officer,
V.R.Section,
High Court, Madras.



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C.M.A.No.444 of 2022

N.MALA.J.,

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C.M.A.No.444 of 2022

14.06.2023