



C.M.A.No. 854 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 07.06.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

C.M.A.No. 854 of 2022

Karuppusamy

... Appellant

Versus

1. Vengai Maran
2. Rajavel
3. The United India Insurance Company Limited
No.4, Royal City, Karur Road,
Tiruchirappalli-620 002.

... Respondents

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 21.04.2021 made in M.A.C.T. O.P. No. 210 of 2019 on the file of the Motor Vehicle Accident Claims Tribunal, Special Subordinate Judge, Erode.

For Appellant	:	Mr.C. Paraneedharan
For RR 1&2	:	Set ex-parte before the Tribunal
For R3	:	Mrs.R. Vijayakamala



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JUDGMENT

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

2. On 10.09.2018, when the claimant was riding his motorcycle bearing Registration No.TN-33-BB-4101 from Tiruchengode to Namakkal Main Road, the driver of the lorry bearing Registration No.TN-24-U-9001 belonging to the second respondent drove the vehicle in a rash and negligent manner and dashed against the claimant's motorcycle, causing the claimant grievous injuries. The claimant, therefore, filed the claim petition claiming a sum of Rs.15,00,000/- as compensation.

3. According to the claimant, he was aged about 62 years at the time of accident and he was doing painting work and earning a sum of Rs.10,000/- per month. The respondents 1 and 2 remained ex-parte before the Tribunal and the third respondent filed a detailed counter affidavit denying the negligence, liability and quantum of compensation.



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4. Before the Claims Tribunal, the claimant examined himself as PW1 and one another witness was examined as PW2 and Ex.P1 to Ex.P15 were marked. On the side of the third respondent/Insurance Company, neither oral nor any documentary evidence was adduced. The Disability Certificate issued by the Government IRT Medical College and Hospital, Perundurai, dated 29.01.2020, was marked as Ex.C1.

5. The Claims Tribunal, on an assessment of the entire evidence on record, awarded a sum of Rs.4,25,000/- as compensation along with 9% interest from the date of claim petition till the date of deposit. Aggrieved by the quantum of compensation awarded by the Claims Tribunal, the claimant has filed the above appeal seeking enhancement of compensation.

6. The learned counsel for the appellant submitted that considering the nature of injuries sustained by the claimant, his age and the period of hospitalization undergone by the claimant, the compensation awarded under the various heads deserved to be enhanced.



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7. The learned counsel for the third respondent/Insurance Company, on the other hand, submitted that the impugned award of the Tribunal was just, fair and reasonable and did not call for any interference in the appeal.

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

9. It is seen that the deceased was aged about 62 years at the time of accident and he sustained comminuted fracture of both bones, and legs, Tibia Plateau fracture, shoulder AC joint disruption. Considering the nature of injuries the Medical Board assessed the disability at 20% under Ex.C1. The Tribunal accepted the Medical Board's certificate, fixed the disability at 20% and awarded Rs.1,00,000/- towards “permanent disability” and “loss of earning power”. I find no justifiable reasons for interfering with finding of the Tribunal on the assessment of disability and the award towards “permanent disability” and “loss of earning power”.



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10. In any event, considering the age of the claimant and the period of hospitalization (12 days) undergone by the claimant, the Award of the Tribunal is modified under other heads like Transport to Hospital, Attender Charges and Extra Nourishment. The Tribunal did not award any sum towards “Loss of Amenities”. This Court fixes the amount towards “Loss of Amenities” at Rs.15,000/-.

11. In view of the above discussion, the award of the Tribunal is modified as follows:-

<i>S.No.</i>	<i>Various Heads</i>	<i>Award of the Tribunal</i>	<i>Award of this Court</i>
1.	Loss of Earnings	Rs.54,000	Rs.54,000
2.	Transport to Hospital	Rs.7,000	Rs.15,000
3.	Extra Nourishment	Rs.8,000	Rs.15,000
4.	Attender Charges	Rs.8,000	Rs.15,000
5.	Future Medical Expenses	---	---
6.	Damages for Clothes and Articles	Rs.3,000	---
7.	Medical Expenses	Rs.1,75,000	Rs.1,75,000
8.	Pain and Sufferings	Rs.70,000	Rs.70,000
9.	Permanent Disability & Loss of Earning Power	Rs.1,00,000	Rs.1,00,000
10.	Loss of Amenities	---	Rs.15,000
Total		Rs.4,25,000	Rs.4,59,000



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12. The award of the Tribunal is enhanced from Rs.4,25,000/- to Rs.4,59,000/-. The interest awarded by the Tribunal is not interfered with. Therefore, the Claimant is entitled to enhanced amount of Rs.34,000/- along with 9% interest from the date filing of the petition till the date of deposit.

13. The learned counsel for the appellant submitted that the entire compensation awarded by the Tribunal was already deposited by the third respondent/Insurance Company. Therefore, there shall be a direction to the third respondent/Insurance Company to deposit the enhanced amount of Rs.34,000/- along with 9% interest from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Claimant is entitled to withdraw the same by making proper application before the Tribunal.

14. Accordingly, this Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs.

07.06.2023

Index:Yes/No
Speaking Order :Yes/No
Neutral Citation:Yes/No
MSM



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To

1.The Special Subordinate Judge, Erode.
Motor Accidents Claims Tribunal, Chennai.

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



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N.MALA.J.,

msm

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