



C.M.A.No.755 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2023

CORAM :

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

C.M.A.No.755 of 2020

T.K.Ganesh

... Appellant/Petitioner

Vs.

1.Krishna Samudhram Radha

2.The Oriental Insurance Co. Ltd.,
Motor Third Party Claims,
No.115 & 116, Prakasam Salai,
Broadway, Chennai – 108.

3.K.Chittibabu

... Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.No.789 of 2015 dated 18.11.2019 on the file of the Motor Accident Claims Tribunal/(Special Sub Court No.1, Motor Accidents Claims Petitions), Small Causes Court, Chennai.

For Appellant : M/s.Ramya V.Rao

For Respondents : Not Ready in Notice [R1]
Mr.R.Sivakumar [R2]
No Appearance [R3]



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JUDGMENT

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Aggrieved by the compensation granted by the Motor Accident Claims Tribunal (Special Sub Judge No.1, Motor Accidents Claims Petitions), Small Cause Court, Chennai in M.C.O.P.No.789 of 2015, the claimant is before this Court.

2. On 20.08.2014 at about 16.30 hrs., while the petitioner was riding the motorcycle bearing Reg.No.AP 03 N 2759 on Nagari to Pattur Main Road towards Puttur, an auto bearing Reg.No.AP 03 Y 3796 driven by its driver in a rash and negligent manner came from the opposite direction at Marati gate and lost control over the vehicle and dashed against the petitioner. Thereby the petitioner sustained grievous injuries. Therefore, he filed a petition claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him.

3. Before the Tribunal, the claimant examined himself as P.W.1 and marked Ex.P.1 to Ex.P.7. No witnesses were examined nor any documents were marked on the side of the respondents. Tribunal has marked the Disability Certificate issued by Medical Board as Ex.C.1. The Tribunal, on



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considering the oral and documentary evidence, awarded a sum of Rs.1,63,750/- under various heads. Not satisfied with the same, the appellant/claimant has preferred the present appeal seeking enhancement.

4. The learned counsel appearing for the appellant submitted that, when the Tribunal has accepted that the auto was driven in a rash and negligent manner and was the cause for the accident and when the Medical Board assessed the disability of the appellant at 30%, the compensation awarded by the Tribunal is grossly inadequate. She also submitted that, for the disability suffered by the appellant, the amount of Rs.3,000/- per percentage of disability awarded by the Tribunal is wholly inadequate. Further, she submitted that the amount awarded under the heads pain and suffering and loss of earnings is also minimal, since the appellant has taken treatment in the hospital for more than a period of two months and the same requires enhancement.

5. Per contra, the learned counsel appearing for the second respondent submitted that, the amount of Rs.3,000/- awarded per percentage of disability is reasonable and so also the compensation awarded under the other heads,



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which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.

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

7. The factum and manner of the accident is not in dispute. Therefore, this Court is not entering into the said aspect. The only grievance of the claimant is with regard to the quantum of compensation awarded. In this regard, this Court perused Ex.C.1, which is the disability certificate issued by the Regional Medical Board, Government Kilpauk Medical College Hospital, Chennai and the same reveals that the appellant had suffered disability of 30%. The Tribunal, by erroneously adopting a sum of Rs.3,000/- per percentage of disability has awarded a sum of Rs.90,000/- by fixing the disability at 30%. Hence, by considering the fact that the accident is of the year 2014, this Court is inclined to fix a sum of Rs.4,000/- per percentage of disability. Therefore, the amount under the head of disability stands enhanced to a sum of Rs.1,20,000/- (30 x Rs.4,000/- = Rs.1,20,000/-).



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8. It is claimed by the appellant that he was a weaver and was earning a sum of Rs.15,000/- per month at the time of accident. However, no document has been filed before the tribunal to prove his monthly income, except the copy of the Weaver ID card issued by Government of Andhra Pradesh. In such circumstances, by applying the ratio laid down by the Hon'ble Supreme Court in the case of ***Syed Sadiq Vs. United India Insurance Company*** reported in ***2014 (1) TANMAC 459***, this Court fixes a sum of Rs.10,000/- as notional income. Since the appellant has taken treatment in the hospital for more than two months, this Court feels that three months salary may be awarded to the appellant. Therefore, the amount under the head of loss of earnings stands enhanced to a sum of Rs.30,000/- (Rs.10,000/- x 3 = Rs.30,000/-).

9. Further, the Tribunal had awarded a sum of Rs.20,000/- towards pain and sufferings; Rs.5,000/- towards transportation; Rs.10,000/- towards extra nourishment; Rs.2,750/- towards attender charges and Rs.20,000/- towards loss of future prospectus. This Court finds that the compensation awarded under the heads transportation, extra nourishment, attender charges



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and loss of future prospectus are just and reasonable and does not require any interference. However, insofar as the compensation awarded towards pain and sufferings is concerned, this Court feels that a sum of Rs.50,000/- would be just and reasonable compensation.

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

<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	Disability	90,000.00/-	1,20,000.00/- (enhanced)
2	Pain and Sufferings	20,000/-	50,000/- (enhanced)
3	Transportation	5,000/-	5,000/-
4	Extra Nourishment	10,000/-	10,000/-
5	Attender Charges	2,750/-	2,750/-
6	Loss of Earnings	16,000/-	30,000/- (enhanced)
7	Loss of future prospectus	20,000/-	20,000/-
	Total	1,63,750/-	2,37,750/-

11. Accordingly, the appeal is partly allowed and the impugned award of the Tribunal is modified enhancing the compensation amount from **Rs.1,63,750/-** to **Rs.2,37,750/-**. The second respondent/Insurance Company



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is directed to deposit the said amount to the credit of M.C.O.P.No.789 of 2015 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 four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant/claimant is permitted to withdraw the award amount, less, the amount, if any already withdrawn. The appellant/claimant is directed to pay the necessary Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time the certified copy showing proof of payment of Court fee is produced by the claimants. In other respects, the Award of the Tribunal is hereby confirmed. There shall be no order as to costs in the present appeal.

27.11.2023

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 No.1, Motor Accidents Claims Petitions), Small Causes Court, Chennai.

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



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M.DHANDAPANI, J.,

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