



C.M.A.No.899 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2023

CORAM:

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

C.M.A.No.899 of 2020

Ramamoorthy

...Appellant

Vs.

1. Duraibabu

2. The New India Assurance Co. Ltd.,
Having Office at No.16/A, G.S.T. Road,
Chengalpattu.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, as against the order dated 30.04.2019 made in MCOP.No.112 of 2015 on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Chengalpattu.

For Appellant : Mr.A.C.Kumaragurubaran

For Respondents : Mr.R.Neethiperumal, for R2



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JUDGEMENT

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Challenging the award dated 30.04.2019 passed in MCOP.No.112 of 2015 on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Chengalpattu, the claimant is before this Court.

2. The case of the Appellant is that, on 26.08.2015, at about 1.00 pm., when the appellant was proceeding in a motorcycle from his native place to Melmaruvathur, near Acharapakkam, a car bearing Regn.No.TN-01-Y-1734, owned by the 1st respondent insured with the 2nd respondent, driven by its driver in a rash and negligent manner came in the wrong side in a high speed and hit the motorcycle in which the appellant was travelling, as a result of which, the appellant sustained grievous injuries all over his body and got admitted in the Hospital. Thereby, the appellant filed a claim petition claiming a compensation of Rs.10,00,000/- for the injuries and loss of income sustained by him. After contest, the Tribunal, vide impugned judgment awarded a compensation of Rs.2,30,589/-. Aggrieved with the said order, the appellant has preferred this appeal seeking enhancement of the compensation fixed by the tribunal.



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3. Learned counsel appearing for the Appellant submitted that admittedly, the above said accident occurred solely due to the rash and negligent driving of the driver of the 1st respondent vehicle, for which, the FIR came to be registered against the driver of the offending vehicle and at the time of accident, the appellant was aged about 32 years and was working as a Driver in the transport corporation and was earning a sum of Rs.20,000/- per month and due to the injuries sustained by him at the time of accident, he sustained 50% permanent disability and the appellant, being a driver by profession, is unable to continue his avocation which he was carrying on before the accident. While so, the tribunal had fixed the disability sustained by the appellant at 35% based on the initial assessment made by the Doctor and instead of adopting multiplier method, had adopted percentage method and awarded a compensation of Rs.1,05,000/- under the head Disability, which is very meagre. Further, due to the injuries sustained by him, the appellant was unable to join duty for about one year and the transport corporation ordered for loss of pay to the tune of Rs.17,696/-, for which the appellant is entitled for compensation under the head Loss of income. Further, till date, the appellant is



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taking treatment for the injuries sustained by him and the medical expenditure incurred by the appellant is about Rs.1,74,788/- and the same is evident from the additional documents marked by the appellant before this Court today, however, the tribunal had awarded only a sum of Rs.15,039/- under the head Medical bills, which is not sustainable. Accordingly, he prayed for appropriate enhancement in favour of the appellant based on the above marked documents. Further, the compensation awarded by the tribunal under other heads are also on the lower side and the same has to be enhanced.

4. Per contra, the learned counsel appearing for the 2nd respondent/ Insurance Company submitted that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prayed for dismissal of the appeal.

5. Heard the learned counsel for the appellant and the learned counsel appearing for the 2nd respondent and perused the materials available on record.

6. The factum and manner of the accident is not disputed by the parties.



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Therefore, this Court is not entering into the said aspect. The only grievance of the appellant/claimant is with regard to the quantum of compensation awarded.

It is claimed by the appellant that though the appellant sustained 50% permanent disability, which is evident from the disability certificate issued by the Medical board, for which, the appellant is entitled to claim compensation by applying multiplier method, however, the tribunal failed to adopt the multiplier method and had awarded only a meagre compensation by adopting percentage method.

7. Though it is claimed by the appellant that the disability sustained by the appellant is functional in nature and that the adoption of percentage method instead of multiplier method by the tribunal is erroneous, however, the said contention cannot be accepted for the reasons that the extent of the disability would not really hamper the appellant from discharging his work. Therefore, considering the said fact that the Tribunal had adopted percentage method and arrived at the compensation and the procedure adopted by the Tribunal cannot be found fault with and this Court is in agreement with the adoption of percentage method. However, a perusal of the Form-VII-



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Certificate of Disability makes it clear that, the disability sustained by the appellant is at the rate 50%, however, the tribunal had awarded for 30% disability alone, which has to be enhanced.

8. Further, the accident is of the year 2015 and at the relevant point of time, as per the existing law, a sum of Rs.4,000/- per percentage of disability has to be adopted, however, the tribunal had taken only a sum of Rs.3,000/- per percentage of disability. Accordingly, the compensation awarded under the head Disability stands enhanced to Rs.2,00,000/-.

9. Further, it is evident from the additional documents marked by the appellant before this Court today ie.,12.12.2023 in CMP.No.9518 of 2023 that due to the injuries sustained by him, the appellant was unable to join duty for about one year and the transport corporation deducted an amount of Rs.17,696/- towards loss of pay but the appellant is entitled for compensation under the head Loss of income and therefore, this Court awards a sum of Rs.17,696/- under the head Loss of income.

10. It is claimed by the appellant/claimant that, till date, the claimant is



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taking continuous treatment and he once again underwent a surgery, which is evident from Ex.A36, for which, he is entitled to claim compensation under the head “Medical bills” and the said fact was also not disputed by the learned counsel appearing for the insurer and he cross verified the medical bills and confirmed the medical bills submitted by the claimant to be genuine. After perusing the said medical bills, this Court being satisfied with the same is inclined to enhance the compensation awarded under the head “Medical bills” to **Rs.1,89,827/-**. (Rs.15,039/- + Rs.1,74,788/- = Rs.1,89,827/-)

11. No compensation has been awarded under the head Future medical expenses and therefore, a sum of Rs.20,000/- shall be awarded under the said head. Further, the compensation awarded under the heads Attenders charges, Extra nourishment and transportation charges are also on the lower side and the same has to be enhanced.

12. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-



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Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
Disability	1,05,000/-	2,00,000/- (enhanced)
Loss of income	-	17,696/- (granted)
Attender charges	3,000/-	10,000/- (enhanced)
Extra nourishment	10,000/-	30,000/- (enhanced)
Transportation charges	22,550/-	30,000/- (enhanced)
Medical bills	15,039/-	1,89,827/- (enhanced)
Pain and sufferings	75,000/-	75,000/-
Future medical expenses	-	20,000/- (granted)
Total	Rs.2,30,589/-	Rs.5,72,523/-

13. Accordingly, the appeal is allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.2,30,589/-** to **Rs.5,72,523/-**. The 2nd respondent-Insurance Company is directed to deposit the said amount to the credit of MCOP.No.112 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



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amount, if any already deposited, within a period of six (6) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the said amount directly to the bank account of the Appellant through RTGS within a period of two (2) weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced compensation by the appellant. There shall be no order as to costs in the present appeal.

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(2/2)

skt

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

To

1. The Motor Accidents Claims Tribunal, Principal Subordinate Judge, Chengalpattu.
2. The Section Officer,
V.R. Section, High Court, Madras.



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C.M.P.No.9518 of 2023

in

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M.DHANDAPANI, J.

This petition has been filed seeking to let in additional evidence by marking the documents mentioned hereunder as additional documents on the side of the appellant/claimant in the above appeal filed against the order passed in MCOP.No.112 of 2015 on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Chengalpattu.

2. Heard the learned counsel for the petitioner/appellant.

3. Mr.S.R.Neethiperumal, learned counsel appearing for the 2nd respondent has no objection for this petition being ordered.

4. Being satisfied with the reasons stated in the affidavit filed in support of the petition, this petition is **ordered** and the additional documents are marked as follows :-



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S.No.	Documents	Marked as
1	Letter issued by the MTC/Employer to the appellant to appear before the Medical Board	Ex.A11
2	Order issued by the MTC/Employer to the appellant to continue as Helper Non ITI	Ex.A12
3	Letter issued by the MTC/Employer to the appellant to appear before the Medical Board	Ex.A13
4	Order issued by the MTC/Employer to the appellant to continue as Helper in Ticket section for six months	Ex.A14
5	MRI Scan Report	Ex.A15
6	Out Patient Chit (14 Nos.) Chengalpattu Government medical college hospital	Ex.A16
7	MRI Scan Report	Ex.A17
8	Letter issued by the MTC/Employer to the appellant to appear before the Medical Officer	Ex.A18
9	Letter issued by the MTC/Employer to the appellant to appear before the Medical Board	Ex.A19
10	Out Patient Chit (3 Nos.) Madras medical college & government general hospital, Chennai-3	Ex.A20
11	Order issued by the MTC/Employer to the appellant non EL	Ex.A21
12	Letter issued by the MTC/Employer to the appellant to appear before the Medical Board	Ex.A22
13	MRI Scan Report	Ex.A23
14	Letter issued by the MTC/Employer to the appellant to appear before the Medical Board	Ex.A24
15	Discharge Summary issued by Madras medical college & Government general hospital, Chennai-3.	Ex.A25
16	Certificate issued by Dr.A.Suchinder about the health condition of appellant	Ex.A26



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S.No.	Documents	Marked as
17	Discharge Summary issued by Madras medical college & Government general hospital, Chennai-3.	Ex.A27
18	Letters correspondence between appellant to his Employer/MTC	Ex.A28
19	Writ petition order in W.P.No.9620 of 2019 (Photo copy)	Ex.A29
20	Prescription chits and clinical notes of Dr.A.Suchinder	Ex.A30
21	Prescription chits and clinical notes of Dr.A.Suchinder	Ex.A31
22	MRI Scan Report	Ex.A32
23	Certificate issued by Dr.A.Suchinder for 15 days leave	Ex.A33
24	Echocardiography Report	Ex.A34
25	Letter from Appellant to Employer/MTC for sanction of leave	Ex.A35
26	Discharge summary Sree Renga Hospital with Medical Bill for Rs.1,74,788/-	Ex.A36
27	Certificate issued by Dr.A.Suchinder about the health condition of appellant	Ex.A37
28	Certificate issued by Dr.A.Suchinder for 30 days leave from 23.03.2023	Ex.A38

12.12.2023
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Copy to:

The Section Officer, VR Section, Madras High Court.



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