



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1187 of 2021

Rajendran

.. Appellant/Claimant

Vs.

1. Sumathi

2. Reliance General Insurance Co. Ltd.,
Raiz Towers, II Floor, Second Avenue,
GRT Jewellers, Anna Nagar, Chennai-40.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to allow the appeal and enhance the compensation in MCOP. No.1742 of 2014 dated 17.07.2020 on the file of the Motor Accidents Claims Tribunal/Ist Additional Sub Curt, Cuddalore.

For Appellant : Mr.Ramya V.Rao

For Respondents : Mrs.C.Bhavanasundari R2
R1 – No appearance

J U D G M E N T

This appeal has been filed by the appellant/claimant seeking enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Tiruchengode vide order dated 17.07.2020.



WEB COPY 2. The brief facts of the case are as hereunder :-

On 28.04.2014 at about 17.30 hours, when the appellant was standing near Venkateswara Water Service Perperiyankuppam, at that time, the first respondents Tata Indica Car bearing Registration No.TN 31 BX 5659 came in rash and negligent manner and dashed against the appellant. As a result, the appellant was sustained injuries. Alleging that the accident was due to negligent driving of the driver of the car, the appellant/claimant has filed a claim Petition before the Motor Accidents Claims Tribunal, Cuddalore under Section 166 of the Motor Vehicle Act, claiming compensation of Rs.6,00,000/- against the owner of the car and its insurer and the same was taken on file in MCOP. No.1742 of 2014.

3. Before the Tribunal, during trial, in order to prove the case of the claimant, he himself has examined as witness and marked 8 documents viz., Exs.P1 to P8. On the side of the respondent, one witness was examined and two documents were marked. The Tribunal, after hearing the arguments on either side and after considering the oral and documentary evidences, has come to the conclusion that the accident occurred only due to negligent



driving of the driver of the car. As the first respondent's car was insured with the second respondent insurance company, the Tribunal held that the second respondent is liable to compensate the claimant. After considering the oral and documentary evidence, the Tribunal has awarded a sum of Rs.51,500/- as compensation to the claimant with interest at the rate of 7.5% per annum from the date of petition till the date of realization.

4. Aggrieved by the said award dated 17.07.2020, the appellant/claimant has filed this appeal before this Court for enhancement of the compensation.

5. The learned Counsel for the appellant submitted that admittedly, at the relevant point of time, the Doctor, who treated the appellant, has assessed the disability at 3% and the Tribunal has awarded only Rs.3,000/- per percentage towards disability, which is very meager. The appellant has suffered grievous injuries and the Doctor has wrongly assessed the disability, which warrants interference. Further, the other heads awarded by the Tribunal is also meager and he prays for enhancement of the compensation.



WEB COPY 6. The learned counsel for the second respondent Insurance Company submitted that the award amount passed by the Tribunal is excessive. Hence, the learned counsel prayed to dismiss the order of the Tribunal.

7. Heard the learned counsel for the appellant/claimant as well as the learned counsel for the respondent Insurance Company and also perused the materials available on record.

8. It is fairly submitted that the claimant has suffered 3% as partial permanent disability and he was taken treatment for one day and the appellant has not produced any medical bills for the treatment taken by him. The Labour Court has rightly awarded for a sum of Rs.9,000/- [3% x 3,000] for disability, which cannot be interfered with. The accident had happened in the year 2014 and the Tribunal has awarded Rs.15,000/- for pain and suffering, which is sustained and this Court is inclined to enhance the same to Rs.50,000/-, which the appellant is entitled for. Further, the amount of Rs.5,000/- and Rs.500/- towards extra nourishment and attender charges are very meager and this Court enhances the same to Rs.15,000/- and Rs.5,000/-



respectively. The Tribunal has awarded Rs.9,000/- for temporary loss of income which is very less and this Court is inclined to enhance the same for a sum of Rs.12,000/-. The other heads awarded by the Tribunal are just and reasonable.

9. The amount of compensation is modified as follows:

Sl.No.	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
1	Loss of disability	9,000	9,000
2	Pain and sufferings	15,000	50,000
3	Loss of amenities	10,000	10,000
4	Extra nourishment	5,000	15,000
5	Attender charges	500	5000
6	Transportation	3,000	3,000
7	Temporary Loss of income	9,000	12,000
	Total	51,500/-	1,04,000/-

10. With the above modification, the appeal is allowed and the compensation awarded by the Tribunal at Rs.51,500/- is hereby enhanced to **Rs.1,04,000/-**, with interest at the rate of 7.5% per annum from the date of petition till the date of realization. The second respondent is directed to deposit the enhanced amount with interest, less the amount already deposited,



if any, within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the award amount with interest, by filing necessary applications before the Tribunal.

No costs.

22.12.2023

Index : Yes / No
Speaking Order : Yes/ No
rli

To
The Motor Accident Claims Tribunal, Cuddalore



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M.DHANDAPANI.,J.

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