



C.M.A.No.1254 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

C.M.A.No.1254 of 2021

S. Perumal

... Appellant / petitioner

Vs.

1. Sri Venkateswara Transports,
Office Address, No.505/4-A,
Girnatham Village and Post,
Saravanapatti Via,
Coimbatore – 641 035.
[R1 remained ex-parte before Tribunal.
Hence notice to R1 dispensed with]

2. The Divisional Manager,
New India Assurance Company Ltd.,
Officers Line, Vellore.

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and Decree dated 28.02.2020, made in M.C.O.P.No.64 of 2018, on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Vellore.

For Appellant	:	Mr. C. Prabakaran
For R1	:	Dispensed with
For R2	:	Ms. R. Sree Vidhya



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JUDGMENT

This Civil Miscellaneous Appeal has been filed by the claimant for enhancement of compensation awarded in M.C.O.P.No.64 of 2018, dated 28.02.2020, on the file of the Motor Accidents Claim Tribunal, Chief Judicial Magistrate Court, Vellore.

2. The parties are referred to hereunder according to their litigative status and ranking before the Tribunal.

3. The case of the claimant is that on 18.02.2018 at about 2.30p.m., he was walking near the Chittor Gate Junction, on Chittor to Palamaner Road, at that time, a Tanker Lorry bearing Registration No.TN 37 CR 4392 driven by its driver in rash and negligent manner suddenly hit on him, which resulted in causing severe injuries to his left leg. He was immediately admitted into the Government Hospital, Vellore, and after discharging from the Hospital he has come forward with this claim petition, claiming compensation for a sum of Rs.20,00,000/- against the first and second respondents who are the owner and insurer of the Tanker Lorry. A criminal case was also registered in Crime No.85 of 2018 under Sections



279 and 337 of IPC against the driver of the Tanker Lorry.

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4. The first respondent was remained ex-parte before the Tribunal. The second respondent is the Insurance Company filed counter and contended that the accident was not occurred due to the negligent act of the driver of the lorry and the claim made under various heads for compensation is also on the higher side and since the lorry driver is not responsible for the accident, the Insurance Company is not liable to pay the compensation and prays to dismiss the claim petition. The Insurance Company has not filed any appeal challenging the liability fixed on them.

5. Before the Tribunal, the on the side of the claimant P.W.1 was examined and Exs.P1 to P8 were marked. On the side of the second respondent no oral and documentary evidence marked. The Tribunal had referred the claimant for Medical Board and receive the Disability Certificate, which was marked as Ex.C1.

6. The Tribunal based on the evidence placed on record, in Point No.1 has held that the negligent act of the driver of the first respondent



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is responsible for causing the injuries to the claimant and in Point No.2, the Tribunal has quantified the compensation and awarded a sum of Rs.1,54,000/- as compensation payable to the claimant along with interest at the rate of 7.5% per annum from the date of filing of claim petition till the date of realisation.

7. Aggrieved over the quantum of compensation fixed by the Tribunal, the claimant has approached this Court seeking enhancement of compensation.

8. The learned counsel for the claimant has submitted that the claimant was a daily wager doing stone breaking work, due to the injuries sustained on his leg, he is not able to continue his manual work and the same has not been properly appreciated by the Tribunal while awarding compensation under the head disability. The compensation awarded under other heads are also on the lower side hence, prays to enhance the award of the Tribunal.

9. Per Contra, the learned counsel for the Insurance Company has submitted that the Tribunal after considering the evidences placed on



record, more particularly, the opinion of the Medical Board, which shows that the injuries sustained by the claimant is only a temporary disablement and after considering the other evidence placed on record, just compensation has been awarded by the Tribunal hence prays to dismiss the appeal.

10. I have considered the rival submissions made on both sides and also perused the entire records.

11. On a perusal of the records, it shows that the Disability Certificate was obtained from the Medical Board, after subjecting the claimant for medical examination and the certificate which is marked as Ex.C1 shows that the disability is fixed as 30%. In Discharge Summary, it is recorded that immediately after the accident, the claimant was admitted into the Hospital on 18.02.2018 and was discharged on 19.02.2018. He has sustained crush injury on the left foot resulting near total amputation. He has also undergone surgeries and wound debridement and later, he was referred to plastic surgery.

12. The Tribunal has accepted the percentage of disability and awarded compensation of Rs.3,000/- per percentage. In this case, the accident was taken place on 18.02.2018 and the norms followed for



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awarding compensation under the percentage method is Rs.5,000/- per percentage. Accordingly, the compensation awarded under the head loss of disability is modified from Rs.3,000/- per percentage to Rs.5,000/- per percentage of 30% disability and awarding a sum of Rs.1,50,000/- [5000 x 30%] under the head loss of disability. The Tribunal has awarded compensation for loss of income during the period of treatment for three months as Rs.18,000/-. It is pleaded by the learned counsel that since the claimant is a daily wager and notional income during the relevant period for daily wager is at Rs.10,000/- and the same has not been properly awarded and accordingly, the same is modified as Rs.30,000/- [10000 x 3months] is granted under the head loss of income during the treatment period.s

13. As far as the compensation awarded under other heads are concerned, the Tribunal has awarded a meager sum of Rs.1,000/- for Transportation and awarded a sum of Rs.5,000/- for Extra Nourishment and this Court is inclined to modify the same as Rs.4,000/- and Rs.10,000/- respectively. The Tribunal has awarded a sum of Rs.40,000/- for Pain and Sufferings and this Court finds the same is just and reasonable and the same is hereby confirmed.



14. Thus the compensation awarded by the Tribunal under various heads are modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Disability 30%	Rs.90,000/-	Rs.1,50,000/-	Enhanced
2.	Loss of income	Rs.18,000/-	Rs.30,000/-	Enhanced
3.	Transportation Charges	Rs.1,000/-	Rs.4,000/-	Enhanced
4.	Pain and Sufferings	Rs.40,000/-	Rs.40,000/-	Confirmed
5	Extra Nourishment	Rs.5,000/-	Rs.10,000/-	Enhanced
	Total	Rs.1,54,000/-	Rs.2,34,000/-	Enhanced by Rs.80,000/-

15. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal is at Rs.1,54,000/- is hereby enhanced to Rs.2,34,000/- [Rupees Two Lakhs Thirty Four Thousand only] together with interest at the rate of 7.5% per annum from the date of filing of Claim Petition till the date of deposit. The second respondent/ Insurance Company is directed to deposit the award amount, now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.64 of 2018, on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate



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Court, Vellore. On such deposit, the claimant is permitted to withdraw the award amount, now determined by this Court, along with proportionate interest and costs, less the amount, if any, already withdrawn. Since this Court has enhanced the compensation, the appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. In other aspects, the award of the Tribunal shall stand confirmed. There shall be no order as to costs in the present appeal.

05.10.2023

ssi

Index : Yes / No

Speaking Order: Yes / No

Neutral Citation Case : Yes/No

To

1.The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal,
Vellore.

2.The Section Officer,
VR Section,



High Court,
Madras.

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K.RAJASEKAR,J.,

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