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C.M.A.No.1047 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2023

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.No.1047 of 2020

M.Chokkalingam

.. Appellant

Vs.

1.Harishkumar

2.Santhiyappan

3.The United India Insurance Co., Ltd.,
24, White Road, Chennai.
Branch at 2nd Floor, 146-N, Kumar Complex,
West Car Street, Tiruchengode Taluk,
Namakkal District.

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 28.11.2019 made in M.C.O.P.No.66 of 2016 on the file of the Motor Accidents Claims Tribunal, Sub Court, Tiruchengode.

For Appellant : Mr.T.S.Arthanareeswaran

For R3 : Mr.C.Paranthaman



J U D G M E N T

Seeking enhancement of compensation granted by the Tribunal in the award dated 28.11.2019 made in M.C.O.P.No.66 of 2016 on the file of the Motor Accidents Claims Tribunal, Sub Court, Tiruchengode, the claimant has filed this Civil Miscellaneous Appeal.

2.The claim petition was filed under Section 166 of the Motor Vehicles Act, read with Rule 3 of the T.N.M.A.C.T. Rules, claiming compensation of Rs.25,00,000/- for the injuries sustained by him in the road accident that occurred on 14.12.2015.

3.According to claimant, on 14.12.2015 at about 06.00 P.M., while he was travelling in the TNSTC Bus bearing Registration No.TN 30 N 0825 from North to South on the Kanthampatti Bypass – Kondalaampatti Bypass road, Coimbatore near Diamondrise School at Butterfly flyover, the driver of the tipper lorry bearing Registration No.TN 20 BJ 5155, came in a rash and negligent manner from the opposite direction, dashed on the bus and caused the accident is not in dispute. Due to the impact, the appellant sustained grievous injuries and fractures.



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4.The Tribunal after hearing both side evidence and upon perusing the oral and documentary evidence, has awarded compensation for a sum of Rs.1,19,500/- and directed the 3rd respondent – Insurance Company to pay the compensation amount to the appellant.

5.The learned counsel for the appellant would vehemently contend that the appellant has sustained R3, R4, R5, R6, R7 & R8 ribs fracture, right scapula fracture and the Medical Board, Namakkal, examined the appellant and assessed that the appellant suffered 15% disability and the compensation granted by the Tribunal for 15% disability at Rs.3,000/- per percentage of disability is very less. After the accident, the appellant was admitted at Government Mohan Kumaramangalam Medical College Hospital, Salem for first aid treatment and thereafter he was shifted to Sudha Institute of Medical Science Hospital, Erode, where he has taken inpatient treatment from 15.12.2015 to 18.12.2015 for four days. The compensation awarded by the Tribunal for pain and sufferings, extra nourishment, attendant charges and transportation are meagre. At the time of accident, the appellant was doing Groundnut, Castor seeds and Cotton selling business and earned a sum of



Rs.25,000/- per month. But, the Tribunal has fixed only a sum of Rs.6,000/- per month as notional income of the appellant and granted compensation for loss of income only for three months. The total compensation awarded by the Tribunal appears to be on the lower side and prayed for enhancement of compensation.

6.Per contra, the learned counsel for the 3rd respondent – Insurance Company would strenuously argue that a sum of Rs.3,000/- awarded by the Tribunal per percentage of disability for 15% disability is not on the lower side. Further, the appellant has not proved his income by producing documentary evidence. In the absence of any documentary evidence, the notional income fixed by the Tribunal at Rs.6,000/- per month is not meagre. The total compensation awarded by the Tribunal appears to be reasonable and prayed for dismissal of the appeal.

7.Heard the learned counsel for the appellant Mr.T.S.Arthanareeswaran and the learned counsel for the 3rd respondent – Insurance Company Mr.C.Paranthaman and perused the materials on record.



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8.It is seen from medical records that the appellant sustained R3, R4, R5, R6, R7 & R8 ribs fracture, right scapula fracture and the Medical Board, Namakkal, examined the appellant and assessed that the appellant suffered 15% disability and issued Ex.P4 / disability certificate to that effect. The Tribunal considering the nature of injuries and Ex.P4 / disability certificate, awarded a sum of Rs.45,000/- for 15% disability at the rate of Rs.3,000/- per percentage of disability. The accident had taken place in the year 2015. Taking into account of the nature and its impact on the injured, this Court deems fit to grant Rs.4,000/- per percentage of disability. Thus, the compensation awarded by the Tribunal towards disability is enhanced to Rs.60,000/- (Rs.4,000/- X 15% disability).

9.Further, it is seen from available materials that after the accident, the appellant was admitted at Government Mohan Kumaramangalam Medical College Hospital, Salem for first aid treatment and then he was shifted to Sudha Institute of Medical Science Hospital, Erode, where he has taken inpatient treatment from 15.12.2015 to 18.12.2015 for four days. Considering the period of treatment and nature of injuries sustained by the appellant,

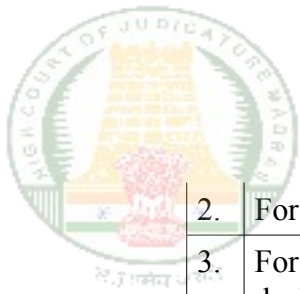


towards pain and sufferings and attendant charges, Rs.30,000/- and Rs.15,000/- are now granted respectively.

10.From the above materials, it is seen that the appellant was aged 60 years and was said to be doing Groundnut, Castor seeds and Cotton selling business and was earning a sum of Rs.25,000/- per month. The appellant has not proved his avocation and income by producing documentary evidence. Considering the year of accident, age and nature of work done by the appellant, the notional income is fixed at Rs.10,000/- per month. Thus, the compensation awarded by the Tribunal towards loss of income is enhanced to Rs.30,000/- (Rs.10,000/- X 3 months). In other aspects, the amounts awarded by the Tribunal appears to be reasonable and hence, the same needs no interference.

11.Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For partial permanent disability	45,000/-	60,000/-	Enhanced



2.	For medical bills	16,500/-	16,500/-	Confirmed
3.	For loss of income during treatment period	18,000/-	30,000/-	Enhanced
4.	For pain and sufferings	20,000/-	30,000/-	Enhanced
5.	For extra nourishment	10,000/-	10,000/-	Confirmed
6.	For transport expenses	5,000/-	5,000/-	Confirmed
7.	For attendant charges	5,000/-	15,000/-	Enhanced
	Total	Rs.1,19,500/-	Rs.1,66,500/-	Enhanced by Rs.47,000/-

12.In the result,

12(i).This Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,19,500/- is hereby enhanced to Rs.1,66,500/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit.

12(ii).The 3rd 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 eight weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.66 of 2016 on the file of the Motor Accidents Claims Tribunal, Sub Court, Tiruchengode.



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12(iii).On such deposit, the appellant / claimant is permitted to withdraw the award amount now determined by this Court along with interest and costs, less the amount if any already withdrawn by filing necessary cheque application before the Tribunal. No costs.

22.06.2023

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

1.The Subordinate Judge,
Motor Accidents Claims Tribunal,
Tiruchengode.

2.The Section Officer,
VR Section,
High Court,
Madras.



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R.KALAIMATHI, J.

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