



CMA.No. 906 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.06.2023

Coram:

THE HONOURABLE MRS. JUSTICE N. MALA

C.M.A.No. 906 of 2022

Nagarajan

... Appellant

Versus

1. Panneerselvam

2. The United India Insurance Company Limited
14/1-770, Salem Main Road, Puduchampalli
Raman Nagar Post, Mettur Dam.

3. Palanisamy

4. The Managing Director
Tamil Nadu State Transport Corporation Limited
12, Ramakrishna Road, Salem-7.

... Respondents

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the Award and Decree in MCOP.No. 800 of 2019, dated 09.01.2020 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge-II, Salem.

For Appellant : Mr.T.S. Arthanareeswaran



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For RR 1, 2 & 4 : No Appearance
For R3 : J. Chandran

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JUDGMENT

The appeal is filed by the claimant challenging the Award and Decree in MCOP.No. 800 of 2019, dated 09.01.2020 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge-II, Salem.

2. The claimant has filed the above appeal for enhancement of compensation.

3. On 14.11.2018, when the claimant was travelling in the 4th respondent/Transport Corporation bus a private bus belonging to the first respondent and insured with the second respondent, came in the opposite direction in a rash and negligent manner, hit against the State Transport Corporation bus. Due to the impact of the accident, the claimant sustained grievous injuries like bone fracture in the knee of his left leg, incised wound on the foot of his left leg, blunt injury, contusion and pain on the left side of his head i.e., above his left side ear. The claimant therefore filed the claim petition claiming a sum of Rs.15,00,000/- as compensation.



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4. According to the claimant, he was aged about 55 years at the time of accident and was earning a sum of Rs.45,000/- per month as Conductor in the Tamil Nadu State Transport Corporation, Salem.

5. The first and third respondents remained ex-parte before the Tribunal and the fourth respondent/Transport Corporation contested the claim petition by filing counter. The Transport Corporation filed a detailed counter disputing the negligence, liability as well as the quantum of compensation.

6. Before the Claims Tribunal, the claimant examined himself as PW1 and Ex.P1 to Ex.P9 were marked on the side of the claimant. On the side of the fourth respondent, one witness was examined and no documentary evidence was marked.

7. The Claims Tribunal, on an assessment of the entire evidence on record, found that the second respondent/Insurance Company was liable to pay the compensation, on the basis of its findings on negligence against the driver of the 1st respondent. The Tribunal awarded Rs.1,81,076/- @ 7.5% interest as compensation and mulcted the liability on the second respondent/Insurance Company. Not satisfied with the award passed by the Claims Tribunal, the



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claimant has filed the above appeal seeking for enhancement of compensation.

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8. The learned counsel for the appellant submitted that the Tribunal erred in awarding Rs.30,000/- as permanent disability. The learned counsel on the basis of the decision of this Court in **M. Chinnathambi v. Deepa and another, decided on 10.01.2020 in CMA.No. 4645 of 2019** submitted that the Tribunal ought to have awarded Rs.50,000/- @ Rs.5,000/- per percentage of disability. The learned counsel submitted that considering the nature of injuries sustained by the claimant, the Tribunal ought to have awarded more compensation for pain and suffering.

9. The learned counsel for the second respondent/Insurance Company, on the other hand, submitted that the Award of the Tribunal was just, fair and reasonable and did not call for any interference in the appeal.

10. Heard the learned counsel for both sides and perused the materials placed on record.

11. It is seen that the Tribunal awarded Rs.30,000 @ Rs.3,000/- per percentage of disability towards loss of permanent disability. In the decision of



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this Court in **M. Chinnathambi v. Deepa and another**, this Court fixed Rs.5,000/- for 1% of disability and therefore, I am of the view that the contention of the learned counsel for the appellant is sustainable. Therefore, the loss towards permanent disability is assessed at Rs.50,000/- (5,000x10). Considering the nature of injuries sustained by the claimant the award towards pain and suffering is enhanced to Rs.25,000/-. The amount awarded under the other heads are confirmed.

12. In view of the above discussion, the award of the Tribunal is modified as follows:

<i>S.No.</i>	<i>Various Heads</i>	<i>Award of the Tribunal</i>	<i>Award of this Court</i>
1.	Loss of permanent disability	Rs.30,000	Rs.50,000
2.	Pain and suffering	Rs.15,000	Rs.25,000
3.	Loss of Love and Affection	Rs.15,000	Rs.15,000
4.	Medical Expenses	Rs.60,076	Rs.60,076
5.	Traveling Expenses	Rs.30,000	Rs.30,000
6.	Extra Nourishment	Rs.20,000	Rs.20,000
7.	Attender Charges	Rs.10,000	Rs.10,000
8.	Damaged Clothes	Rs.1,000	Rs.1,000
Total		Rs.1,81,076	Rs.2,11,076

13. The claimant is entitled to enhanced compensation of Rs.2,11,076/- along with 7.5% interest.



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14. It is submitted by the learned counsel for the second respondent/Insurance Company that the entire award amount was already deposited before the Tribunal. There shall be a direction to the second respondent/Insurance Company to deposit the balance enhanced amount of Rs.30,000/- along with 7.5% interest within a period of four weeks from the date of receipt of the copy of this order. On such deposit being made, the claimant is entitled to withdraw the same by making proper application before the Tribunal.

15. The appeal is accordingly partly allowed. There shall be no order as to costs.

08.06.2023

msm

Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

To

1. The Special Subordinate Judge-II,
Special Subordinate Judge-II, Salem.
- 2.The Section Officer, V.R.Section, High Court, Madras.



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N.MALA.J.,

msm

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