



CMA.No. 951 of 2022

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.06.2023

Coram:

THE HONOURABLE MRS. JUSTICE N. MALA

C.M.A.No. 951 of 2022

Kannan

Versus

... Appellant

1. The Chairman

M/s. Mahindra Institute of Engineering
& Technology, Mahindrapuri, Mallasamudram West,
Vadugapalayam Post
Tiruchengode Taluk, Namakkal District.

2. The Chairman

M/s. Mahindra Engineering College,
Mahindrapuri, Mallasamudram West,
Vadugapalayam Post
Tiruchengode Taluk, Namakkal District.

3. The National Insurance Company Limited

D.No. 19/B, S.R. Complex, Rajamani Thottam
Bhavani Main Road, NH-47,
Sankari, Salem- 637301.

4. The National Insurance Company Limited

1272-1273, Palaniappa Complex,
Mettur Road, Erode - 638 011.

... Respondents



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Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the Award and Decree in MCOP.No. 124 of 2018, dated 24.07.2020 on the file of the Motor Accident Claims Tribunal, Special District Judge, Erode.

For Appellant : Mr.C. Paraneedharan
For RR 1&2 : Mr. A. Thiyagarajan
For RR 3 &4 : Mr.J. Chandran

JUDGMENT

The appeal is filed by the claimant seeking enhancement of compensation.

2. On 21.07.2017, while the claimant was riding his two wheeler bearing Registration No. TN-36-AT-7873, a college bus bearing Registration No. TN-34-S-7330 belonging to the first respondent and insured with the third respondent came in the opposite direction in a rash and negligent manner and dashed against the claimant's two wheeler, due to which, the claimant sustained grievous injuries.

3. According to the claimant, he was aged about 21 years at the time of accident and was working as Supervisor in a Private Mill and earning a sum of Rs.14,000/- per month. The claimant filed the claim



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petition seeking Rs.10,00,000/- as compensation for the injuries sustained by him in the accident.

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4. Before the Claims Tribunal, the respondents 1 & 2 remained exxparte and the claim petition was contested by the respondents 3 and 4. The respondents 3 & 4 filed the counter disputing the negligence, liability and quantum of compensation apart from denying all other averments.

5. Before the Claims Tribunal, the claimant examined himself as PW1 and the doctor was examined as PW2 and Ex.P1 to Ex.P15 were marked in support of the claim. On the side of the respondents, neither oral nor any documentary evidence was adduced.

6. The Claims Tribunal on an assessment of the entire evidence on record, awarded a sum of Rs.2,54,558/- along with interest at 7.5% and mulcted the liability on the third respondenet/Insurance Company. Not satisfied with the award passed by the Tribunal, the claimant has filed the above appeal for enhancement of compensation.



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7. The only point to be decided in the appeal is as to whether the appellant is entitled for enhanced compensation or not?

8. The learned counsel for the appellant submitted that the Claims Tribunal instead of awarding Rs.5,000/- per percentage of disability awarded Rs.3,000/- per percentage of disability which is against the ruling in *Chinnathambi's case*. The learned counsel submitted that the appellant was hospitalized for 15 days for treatment of the injuries and therefore, the Award of the Tribunal towards “transport charges” was very meagre.

9. The learned counsel for the respondent submitted that the award of the Tribunal did not call for any interference in the appeal.

10. Following the judgment of this Court in *Chinnathambi case* reported in 2020 (1) TNMAC 617, I find that the claimant is entitled to Rs.5,000/- per percentage, as the accident took place in the year 2017. Therefore, the award of the Tribunal towards permanent disability is enhanced from Rs.42,000/- to Rs.70,000/-. The appellant sustained



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fracture of Tip of TPX Rt little finger with Compound Fracture of TPX Fracture Posterior Condyle of Rt Tibia and was hospitalised for 15 days, I therefore find that the claimant shall be entitled to Rs.1,000/- per day towards “transportation charges” for 15 days. The award of the Tribunal towards “transport expenses” is hence enhanced from Rs.10,000/- to Rs.15,000/-.

11. 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.	Pain and Suffering	Rs.45,000	Rs.45,000
2.	Medical Expenses	Rs.57,558	Rs.57,558
3.	14% Temporary Disability	Rs.42,000	Rs.70,000
4.	Attender Charges	Rs.25,000	Rs.25,000
5.	Transport Expenses	Rs.10,000	Rs.15,000
6.	Temporary Loss of Income	Rs.40,000	Rs.40,000
7.	Food and Nutrition	Rs.10,000	Rs.10,000
8.	Future Medical Expenses	Rs.25,000	Rs.25,000
	Total	Rs.2,54,558	Rs.2,87,558

12. The claimant is entitled for enhanced compensation of Rs.2,87,558/- along with interest at 7.5% from the date of claim petition till the date of realization.



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13. The learned counsel for the appellant submitted that the third respondent/Insurance Company has not deposited any amount before the Tribunal. Therefore, there shall be a direction to the third respondent/Insurance Company to deposit the enhanced compensation amount Rs.2,87,558/- along with interest at 7.5%, within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the claimant is entitled to withdraw the same by making proper application before the Tribunal.

14. Accordingly, the appeal is partly allowed. There shall be no order as to costs.

08.06.2023

Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

MSM

To

1.The Special District Judge,
Motor Accidents Claims Tribunal, Erode.

2.The Section Officer,
V.R.Section,
High Court, Madras.



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N.MALA.J.,

msm

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