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C.M.A.No.1965 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2023

CORAM:

THE HON'BLE Mr.JUSTICE A.A.NAKKIRAN

CMA. No.1965 of 2018

Vadivel

... Appellant

..VS..

1.RPM Transport by its Proprietor
No.368/5A, Four road, Ariyalur Main Road,
Thuraimangalam, Perambalur.

2.United India Insurance Co.,Ltd.,
4/700 V, Thiru Erumbeeswarar Nagar,
(Near Sree Sweets)
New Town Bus stop,
Tiruchirapalli-620 013.

... Respondents

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988,
against the judgment and decree dated 20.06.2018 made in
MCOP.No.980 of 2016 on the file of the Motor Accident Claims Tribunal
– cum- Chief Judicial Magistrate Court, Perambalur.

For Appellant : Mr. T.Gobinath

For Respondents : Mr.M.J.Vijayaraghavan for R2

No appearance for R1



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J U D G M E N T

Aggrieved over the quantum of compensation arrived at by the Tribunal at Rs.65,000/- along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit, the claimant / appellant is before this Court. Since challenge to the appeal is only on quantum, this Court deals only with the quantum arrived at by the Tribunal, confirming the negligence aspect.

2. It is the case of the claimant/appellant that on 04.08.2016, at 08.45 p.m., while the claimant was riding the Hero Honda Splendor motor cycle bearing Regn.No.TN-46-L-8317 from North to south in Ariyalur proceeding to Perambalur Road, when the vehicle was coming near Melamathur Bus stop, a Trailer lorry belonging to the first respondent bearing Regn.No.TN-46-T-3274 came in the opposite direction and dashed against the claimant and thereby the claimant sustained fractures in ribs and left leg and injuries all over the body.



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Claiming that the driver of the Trailer lorry had caused the accident, and respondents are liable to pay compensation jointly and severally, claim petition came to be filed claiming a sum of Rs.10,00,000/- as compensation before the Tribunal.

3. The Tribunal, based on the oral and documentary evidences, has awarded a sum of Rs.65,000/- as total compensation payable by the second respondent to the claimant under the following heads:

Heads	Award Amount (Rs.)
Medical Expenses	1000/-
Pain and Sufferings	2000/-
Extra Nourishment	2000/-
Disability	60,000/-
Total	Rs.65,000/-

4. Heard the learned counsel for the appellant and the learned counsel for the second respondent. Perused the materials available on record.



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5. The learned counsel for the appellant submitted that the appellant has sustained 30% partial permanent disability. He sustained fractures in ribs and left leg and injuries all over the body. PW3 / Doctor in Ex.P11/Disability certificate mentioned that there is malunion as well as non union in the ribs which reduce the expansion of lung. The claimant has taken treatment as in-patient at Government Hospital, Ariyalur and subsequently, he has taken treatment in a private Hospital and also taking treatment till date. The claimant is disable to do any work. The Tribunal has erred in taking Rs.3000/- for 1% disability and a sum of Rs.60,000/- has been awarded towards 'Disability'. The appellant/claimant, was an agriculturist earning about Rs.15,000/- per month. The PW2/Doctor who assessed the disability of the Appellant has fixed his disability at 30%. But the Tribunal has taken 20% for granting compensation under the head of 'disability'. The disability compensation awarded by the Tribunal as seen from the impugned award is Rs.60,000/- by calculating at Rs.3000/- per percentage of disability. The amount awarded under the head of 'Extra Nourishment' is Rs.2,000/- which is



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also meagre. Due to the grievous injuries, suffered by the appellant, he is in need of more extra nourishment. He further submitted that ample evidence and documents were produced before the Tribunal to prove the avocation, injuries and treatment details of the claimant / appellant and hence the award of the Tribunal needs significant enhancement.

6. Per contra, the learned counsel for the second respondent has submitted that the Tribunal has granted reasonable compensation under various heads and no modification needs to be granted. Hence, he prays to dismiss the petition.

7. Considering the Ex.P2 to Ex.P4 and also Ex.P10, the nature of the injuries sustained by the Appellant/claimant, this Court is inclined to fix Rs.5000/- for each percentage of disability since the year of the accident is 2016. Hence, in view of the modification of Rs.3000/- to Rs.5000/- for each percentage by this Court, the disability compensation



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is enhanced to Rs.1,00,000/- by this Court instead of Rs.60,000/- assessed by the Tribunal. Similarly, the amounts awarded under the heads of 'pain and sufferings' and 'Extra Nourishment,' are also enhanced to Rs.6,000/- each.

8. A perusal of the judgment of the Tribunal has awarded Rs.1000/- towards medical expenses, which in the opinion of this Court, is correct and hence the said sum awarded under this head is confirmed as such. Thus, the break-up details of the modified compensation are as follows:

Heads	Amount (Rs.)
Disability (20%x5000)	1,00,000
Medical expenses	1000
Pain and suffering	6000
Extra Nourishment	6000
	
Total	Rs.1,13,000

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9. In the result, the Civil Miscellaneous Appeal filed by the claimant/appellant is partly allowed by enhancing the total compensation from Rs.65,000/- to **Rs.1,13,000/-**, which is payable with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. It is made clear that for the enhanced amount of Rs.48,000/-, the interest rate of 7.5% shall be calculated from the date of filing of this appeal. Since the compensation amount now awarded is Rs.1,13,000/-, it is made clear that the claimant has to pay the appropriate Court fee in order to receive the enhanced award amount.

10. The second respondent/Insurance Company shall deposit the enhanced compensation amount, as awarded by this Court, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount along with accrued



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A.A.NAKKIRAN., J.

gv

interest as per the order of this Court to the appellant/claimant through RTGS within a period of two weeks thereafter. No costs.

07.03.2023

Index : yes/No
Internet: Yes/No
gv

To

1. The Motor Accident Claims Tribunal,
– cum- Chief Judicial Magistrate Court,
Perambalur.
2. The Section Officer,
V.R.Section,
Madras High Court,
Chennai-104.

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