



C.M.A.No.515 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.03.2023

CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.515 of 2023

Viswnathan, S/o.Thiruvankadam,
78, Selliamman Kovil Street,
Eachankaranai Village,
Thirukalukundram Taluk,
Ammanambakkam,
Kancheepuram 603 109.

... Appellant

Vs.

1.M/s.Naandi Foundation,
Pristine Pavilion Block Mira,
Mahindra World City,
Chengalpattu, Kancheepuram 603 204

2.United India Insurance Co. Ltd.,
No.134, Greaves Road, IV Floor,
Anna Salai, Chennai 600 006.

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 26.11.2021 made in MACTOP.No.2047 of 2018 on the file of the Motor Accident Claims Tribunal (Special Sub Court No.2) Court of Small Causes, Chennai.



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For Appellant : Mr.A.G.F.Terry Chella Raja

For Respondents : Mr.R.Rajesh (for R2)

J U D G M E N T

The Appeal has been filed against the Judgment and Decree dated 26.11.2021 made in MACTOP.No.2047 of 2018 on the file of the Motor Accident Claims Tribunal (Special Sub Court No.2) Court of Small Causes, Chennai.

2.The claim Petitioner is the Appellant herein. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3.The claim Petitioner filed MACTOP.No.2047 of 2018 on the file of the Motor Accident Claims Tribunal (Special Sub Court No.2) Court of Small Causes, Chennai, seeking compensation for the injuries sustained by him in a road traffic accident occurred on 05.09.2017. The Tribunal has awarded a sum of Rs.2,45,600/- with interest at the rate of 7.5%. Aggrieved against the same and seeking enhancement, he has preferred this Appeal.



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4.The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are not under challenge in this Appeal. Accordingly, the finding rendered by the trial Court that the accident taken place due to the rash and negligent driving of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are hereby confirmed.

5.During the trial, on the side of the claim Petitioner, PW1 was examined, Ex.P.1 to Ex.P.12 were marked and on the side of the Respondents, RW1 was examined, Ex.R.1 to Ex.R.3 were marked and Ex.C1 also marked.

6.Heard the learned counsel for the claim Petitioner and learned counsel for the Insurance Company.

7.The claim Petitioner/injured was working as Waster Collector/contract labour in Rainbow Multitech Company and earned Rs.10,200/- as could be seen from Ex.P.6. After the accident, he had taken treatment in the ESIC Hospital at Chennai for a period of 22 days from 05.09.2017 to 26.09.2017 and he was referred to the Medical board. As per Ex.C1/Disability certificate, the disability



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was assessed as partial and permanent disability at 40% and the Tribunal has considered the same and awarded a sum of Rs.5,000/- per percentage and accordingly, granted Rs.2,00,000/- [40 x Rs.5,000/-] towards disability. The same is hereby confirmed.

8.The Tribunal has awarded a sum of Rs.25,000/- towards pain and sufferings, Rs.4,000/- towards transportation, Rs.10,000/- towards extra nourishment, 6,600/- towards attender charges. Taking into consideration the nature of injuries, treatment taken by the claim Petitioner and period of treatment, the same are hereby enhanced to Rs.40,000/-, Rs.10,000/-, Rs.20,000/- and Rs.10,000/- respectively. Due to the injuries sustained by the claim Petitioner, he would have lost his salary for a period of 5 months and accordingly, a sum of Rs.50,000/- [Rs.10,000/- x 5 = Rs.50,000/-] is awarded towards loss of income and a sum of Rs.10,000/- is awarded towards loss of amenities.

<i>S.No.</i>	<i>Heads</i>	<i>Amount (Rs.)</i>
1	Disability	200000
2	Pain and sufferings	40000



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<i>S.No.</i>	<i>Heads</i>	<i>Amount (Rs.)</i>
3	Transportation	10000
4	Extra nourishment	20000
5	Attender charges	10000
6	Loss of income	50000
7	Loss of amenities	10000
	Total	340000

The Tribunal has awarded 7.5% interest. The same is hereby confirmed.

9.In total, the claim Petitioner is entitled to a sum of Rs.3,40,000/- (Rupees three lakh and forty thousand only).

10. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the award amount from Rs.2,45,600/- to Rs.3,40,000/- to the extent indicated above, with 7.5% interest per annum. No Costs.

(ii) the Insurance Company is directed to deposit the enhanced award amount before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.



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(iii) on such deposit being made, the claim Petitioner/Appellant is permitted to withdraw the entire enhanced award amount with accrued interest and costs, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) the claim Petitioner/Appellant is directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

03.03.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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To
The II Special Sub Judge
Motor Accident Claims Tribunal
(Special Sub Court No.2)
Court of Small Causes
Chennai.



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RMT.TEEKAA RAMAN.J,

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