



C.M.A.No.2486 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.2486 of 2019

P.G.Murugan

... Appellant/Claimant

Vs.

1.Ravi

2.The Oriental Insurance Company Limited,
HUB, Vijayalakshmi Complex,
Phase II,
Sathuvachary,
Vellore.

3.C.Krishnamurthy

4.The United India Insurance Company Limited,
Claims Division,
D.K.M. Complex,
Katpadi Road,
Vellore.

5.The Manging Director,
Tamilnadu State Transport Corporation Limited,
Villupuram,
Division II,
Tiruvannamalai Region,



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Bye Pass Road,
Near Collectorate Complex,
Vengikkal,
Tiruvannamalai Taluk.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173(i) of the Motor Vehicles Act, 1988 against the Fair and Decreetal order dated 24.10.2018 passed in MCOP No.103 of 2016 on the file of the Motor Accident Claims Tribunal (Special Subordinate Judge), Tiruvannamalai for enhancement of compensation.

For Appellant : Mr.K.Govi Ganesan

For Respondents : No Appearance [R1, R3 & R5]
Mr.D.Baskaran [R2]
Ms.R.Sreevidhya [R4]

JUDGMENT

Aggrieved by the compensation granted by the Motor Accident Claims Tribunal (Special Subordinate Judge), Tiruvannamalai in M.C.O.P.No.103 of 2016, the claimant is before this Court.

2. On 14.03.2015 at about 8.45 p.m., the petitioner was travelling in the bus bearing Reg.No.TN 25 N 0331 at Vellore to Tiruvannamalai



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Main Road near Sri Renugambal College. At that time, the driver of the lorry bearing Reg.No.TAJ 7786 came from South to North direction, drove the same in a rash and negligent manner and he tried to overtake a stationary tractor bearing Reg.No.TN 25 J 7737 which was parked on the left side of the road. Due to the over speed, the lorry dashed on the side of the tractor and then dashed against the bus, in which the petitioner was travelling, thereby, the petitioner sustained fracture on his left femur shaft, injuries on his left leg, left knee, right palm and all over the body. Therefore, the claimant has filed a petition claiming a sum of Rs.25,00,000/- as compensation for the injuries sustained by him.

3. Before the Tribunal, the claimant examined himself as P.W.1 and marked Ex.P.1 to Ex.P.14. No witnesses were examined nor any documents were marked on the side of the respondents and the Court Document Ex.C.1 has been marked by the Tribunal. After considering all the oral and documentary evidence, the Tribunal, awarded a sum of Rs.3,50,389/- as compensation to the claimant. Challenging the same, the appellant/claimant is before this Court.



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4. The learned counsel appearing for the appellant submitted that, at the relevant point of time, per percentage of disability is Rs.5,000/-. Though the Tribunal had held that the appellant had sustained 30% disability as per Ex.C.1, however, the Tribunal had awarded a sum of Rs.90,000/- by fixing a sum of Rs.3,000/- per percentage of disability, which requires to be reconsidered. Accordingly, he prays for allowing the appeal.

5. Per contra, the learned counsel appearing for the second respondent submitted that, the Tribunal had fixed the per percentage of disability at a sum of Rs.3,000/-, which is just and reasonable and so also the compensation awarded under the other heads, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.

6. Heard the learned counsel appearing for the appellant, the learned counsel appearing for the second respondent and the learned counsel appearing for the fourth respondent and perused the materials available on record.



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7. The factum and manner of the accident is not in dispute.

Therefore, this Court is not entering into the said aspect. The only grievance of the appellant is with regard to the quantum of compensation awarded by the Tribunal. It is borne from the award passed by the Tribunal that the Medical Board opined that due to the injuries sustained by the appellant, he had suffered 30% disability. By accepting the report of the Medical Board, viz., Ex.C.1, the Tribunal had erroneously fixed a sum of Rs.3,000/- per percentage of disability, even though, at the relevant point of time, per percentage of disability is Rs.5,000/-, hence, the same has to be enhanced. Therefore, the amount under the head of loss of earning due to "disability" stands enhanced to a sum of Rs.1,50,000/- (30 x Rs.5,000/- = Rs.1,50,000/-). Further, this Court finds that the compensation awarded under the other heads are just and reasonable and the same does not require any interference.

8. In view of the above, the compensation awarded by the Tribunal is modified as under :



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<i>S.No.</i>	<i>Description</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
1	Disability (30%)	90,000/-	1,50,000/- (enhanced)
2	Pain and Sufferings	35,000/-	35,000/-
3	Medical expenses	1,85,389/-	1,85,389/-
4	Transportation	10,000/-	10,000/-
5	Loss of income during the treatment period	20,000/-	20,000/-
6	Extra Nourishment	10,000/-	10,000/-
	Total	3,50,389/-	4,10,389/-

9. Accordingly, the appeal is partly allowed and the impugned award of the Tribunal is modified enhancing the compensation amount from **Rs.3,50,389/-** to **Rs.4,10,389/-**. The second respondent/Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.103 of 2016 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six (6) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant/claimant is permitted to withdraw the award amount, less, the amount, if any already



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withdrawn. The appellant/claimant is directed to pay the necessary Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time the certified copy showing proof of payment of Court fee is produced by the claimant.

There shall be no order as to costs in the present appeal.

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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To

1.The Motor Accident Claims Tribunal (Special Subordinate Judge),
Tiruvannamalai.

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



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M.DHANDAPANI, J.,

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