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CMA.No.22 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

Civil Miscellaneous Appeal No.22 of 2018

Pandian @ Pandi

... Petitioner/Appellant

-Vs-

1. M.Joseph Raj
2. Oriental Insurance Company Limited,
Oriental House,
Second Floor, Old No.115, New No.216,
Prakasam Salai,
Broadway, Chennai – 600 108.

... Respondents/Respondents

Prayer : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the judgment and decree dated 06.01.2016 made in M.A.C.T.O.P.No.1769 of 2014 on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai.

For Appellant : Ms.M.Malar

For Respondent : Mr.R.Sivakumar [R2]



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JUDGMENT

WEB COPY This Civil Miscellaneous Appeal arises against the judgment of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai, passed in M.C.O.P.No.1769 of 2014 on 06.01.2016.

2. The claimant has filed this appeal seeking enhancement of compensation.

3. It is a case of the appellant/claimant that on 11.01.2014 at about 14.45 p.m., when the petitioner was crossing the road from West to East at Durgabai Deskmuh Salai, near MGR Janaki College, Chennai, a motor cycle bearing registration No.TN-07-BU-5826 ridden by its rider in a very rash and negligent manner and endangering the public safety came from North to South, hit the petitioner. Due to this impact, the petitioner sustained injuries. Hence, the petitioner has filed a petition before the Tribunal claiming compensation in a sum of Rs.20,00,000/- from the respondents together with interests and costs for the injuries sustained by him.



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4. Before the Tribunal, on behalf of the claimant, the claimant and two others were examined and six exhibits were marked. On behalf of the respondent, the Insurance Company's Senior Assistant was examined as R.W.1.

5. On appreciation of the materials before it, the Tribunal awarded compensation as follows:

(a) Compensation for Disability	:	Rs. 90,000/-
(b) Loss of Income	:	Rs. 6,930/-
(c) Attender charges	:	Rs. 630/-
(d) Transportation	:	Rs. 2,000/-
(e) Extra Nourishment	:	Rs. 10,000/-
(f) Damage to clothes	:	Rs. 1,000/-
(g) Medical Expenses	:	Rs. 5,000/-
(h) Pain and suffering	:	Rs. 30,000/-
(i) Mental Shock and agony	:	Rs. 10,000/-

		Rs.1,55,560/-

The said sum was directed to be paid by the second respondent along with interest at 7.5% per annum from the date of petition till the date of deposit of the award amount.

6. Learned counsel for the appellant/claimant submits that though the Doctor has fixed the disability of the appellant/claimant at 90%, the



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Tribunal has erred in fixing the disability at 30%. He also submits that the Tribunal erred in granting only a sum of Rs.2,000/- towards transportation and Rs.30,000/- towards pain and suffering, which is on the lower side.

7. I have heard the learned counsel appearing for the appellant/claimant and have perused the records.

8. Considering the injuries sustained by the appellant/claimant, I am of the view that the compensation of Rs.30,000/- towards pain and suffering and Rs.2,000/- towards Transportation needs to be enhanced and the same is enhanced to Rs.40,000/- and Rs.5,000/- respectively. Taking into account the nature of injuries sustained by the appellant and fixation of disability at 90% by the doctor, this Court fixes the disability at 60% and a sum of Rs.4,000/- per percentage of disability is awarded and accordingly, the award under the head disability would be Rs.2,40,000/- [4000*60%]. The award in respect of other heads is hereby confirmed.



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9. In the light of the said discussions, the modified award amount is as follows:

<i>S.No.</i>	<i>Particulars</i>	<i>Award of Tribunal</i>	<i>Enhanced amount</i>	
1.	Disability	Rs. 90,000/-	Rs. 2,40,000/-	Enhanced
2.	Loss of Income	Rs. 6,930/-	Rs. 6,930/-	Confirmed
3.	Attender charges	Rs. 630/-	Rs. 630/-	Confirmed
4.	Transport to Hospital	Rs. 2,000/-	Rs. 5,000/-	Enhanced
5.	Extra Nourishment	Rs. 10,000/-	Rs. 10,000/-	Confirmed
6.	Damage to clothing	Rs. 1,000/-	Rs. 1,000/-	Confirmed
7.	Medical expenses (Conservative Treatment Charges)	Rs. 5,000/-	Rs. 5,000/-	Confirmed
8.	Pain and Suffering	Rs. 30,000/-	Rs. 40,000/-	Enhanced
9.	Mental shock and agony	Rs. 10,000/-	Rs. 10,000/-	Confirmed
	Total	Rs. 1,55,560/-	Rs. 3,18,560/-	

10. Accordingly, the amount awarded by the Tribunal is enhanced from Rs.1,55,560/- to Rs.3,18,560/- together with interest at 7.5% per annum from the date of petition till date of deposit as compensation.

11. The respondent/ Insurance Company is directed to deposit the entire amount i.e., Rs.3,18,560/-, less the amount already paid, if any together with interest at 7.5% per annum from the date of petition till date of deposit and costs to the credit of MCOP.No.1769 of 2014 on the



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file of the Motor Accident Claims Tribunal, III Court of Small Causes,
Chennai within a period of six(6) weeks from the date of receipt of a
copy of this order.

12. The appellant/claimant is entitled to withdraw the entire
amount on such deposit by the respondent.

Accordingly, this Civil Miscellaneous Appeal is partly allowed.

No costs.

23.03.2023

mp

To

The Motor Vehicle Accident Claims Tribunal/
III Court of Small Causes,
Chennai.



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A.A.NAKKIRAN, J.

mp

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