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C.M.A.No.1248 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1248 of 2020

Karthik

... Appellant

Vs.

1.Singaravel

(The first respondent remained Ex-parte
before the Tribunal. Hence, notice may
be dispensed with)

2.M/s.National Insurance Company Ltd.,
No.33, K.R.T.Buildings
Promonede Road, Cantonment
Trichy-1
rep. by its Divisional Manager.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor
Vehicles Act, against the order and decretal order in M.C.O.P.No.235
of 2017 dated 17.03.2020 on the file of Motor Accidents Claims
Tribunal / Chief Judicial Magistrate, Perambalur.

For Appellant : Mr.S.Kamadevan
For Respondents : R1 – Exparte
Ms.N.B.Surekha for R2



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J U D G M E N T

This appeal has been filed against the order and decretal order dated 17.03.2020 passed by the Motor Accidents Claims Tribunal / Chief Judicial Magistrate, Perambalur, in M.C.O.P.No.235 of 2017.

2.The learned counsel appearing for the appellant submitted that on 23.11.2016 at about 4 p.m., the appellant was riding his Hero Passion Pro Two Wheeler bearing Registration No.TN-46-R-1068 along with his mother Jayamani as pillion rider on Chennai – Trichy NH – 45 Road from North to South near Thozhudhur Bridge. At that time, the rider of the two wheeler bearing Registration No.TN-31-AQ-5088 which was proceeding in front of the two wheeler driven by the appellant suddenly drove the vehicle from East to West in a rash and negligent manner and dashed against the two wheeler driven by the appellant, due to which, the appellant sustained injuries.

3.The learned counsel appearing for the appellant further submitted that thereafter, the injured claimant/ appellant filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.10 Lakhs and the Tribunal awarded a sum of



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Rs.1,01,000/- as compensation to the appellant. The learned counsel further submitted that the amount awarded by the Tribunal is meagre and hence, the appellant claimant has filed this appeal for enhancement of compensation.

4.The learned counsel appearing for the second respondent Insurance Company submitted that the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference.

5.Heard the learned counsel appearing for the appellant claimant as well as the learned counsel appearing for the second respondent Insurance Company and perused the materials available on record.

6.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only questioning the quantum of compensation.

7.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.75,000/- for disability, Rs.5,000/- for pain and



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sufferings, Rs.6,000/- for loss of income, Rs.5,000/- for extra nourishment and for transportation charges, Rs.5,000/- for mental agony, Rs.5,000/- for attender charges and arrived at a total compensation of Rs.1,01,000/- with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit and costs and directed the second respondent to deposit the compensation.

8.The Tribunal has fix the disability of the claimant as 25% and has awarded Rs.3,000/- per percentage of disability, however, at the relevant point of time Rs.5,000/- per percentage of disability was awarded. Hence, amount awarded for disability works out to Rs.1,25,000/- [25% X Rs.5,000/- = Rs.1,25,000/-]. The amount awarded under the head pain and suffering and extra nourishment and transportation charges, in the opinion of this Court is low and this Court is inclined to enhance the amount awarded under the said heads. Accordingly, the amount awarded for pain and suffering is enhanced to Rs.25,000/- from Rs.5,000/- and the amount awarded for extra nourishment and transportation charges is enhanced to Rs.10,000/- from Rs.5,000/-. The amount awarded under the heads loss of income and attender charges are just and reasonable and the same are confirmed. In the considered opinion of this Court, the amount



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awarded for mental agony is not necessary and hence the amount awarded under the said head is deleted.

9. Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Disability	Rs. 75,000/-	Rs.1,25,000/-
2.	Extra nourishment and transportation charges	Rs. 5,000/-	Rs. 10,000/-
3.	Mental agony	Rs. 5,000/-	---
4.	Loss of income	Rs. 6,000/-	Rs. 6,000/-
5.	Attender charges	Rs. 5,000/-	Rs. 5,000/-
6.	Pain and sufferings	Rs. 5,000/-	Rs. 25,000/-
	Total	Rs.1,01,000/-	Rs.1,71,000/-

10. The appellant claimant is entitled to total compensation of Rs.1,71,000/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit.

11. The civil miscellaneous appeal is allowed. The order and decretal order of the Motor Accidents Claims Tribunal / Chief Judicial Magistrate, Perambalur in M.C.O.P.No.235 of 2017 dated 17.03.2020, is modified to the above extent. No costs.



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12.The second respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal within a period of four weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such deposit being made, the appellant/ claimant is permitted to withdraw the modified/ enhanced award amount, along with accrued interest and costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellant/ claimant shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The appellant/ claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accidents Claims Tribunal / Chief Judicial Magistrate, Perambalur, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellant/ claimant.

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

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1.The Motor Accidents Claims Tribunal /
Chief Judicial Magistrate, Perambalur.

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M.DHANDAPANI,J.
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