



C.M.A.No.1912 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

C.M.A.No.1912 of 2023

K.Sasikumar

... Appellant

Versus

1.R.Iyyanar

2.Reliance General Insurance Company Limited,
AVS Tower, Next to Srinivasa Motors
R.S. No.181/2, 100 Feet Road,
Sundararaja Nagar, Mudaliyarpeta,
Puducherry – 605 004.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 15.07.2022 passed in M.C.O.P.No.583 of 2019, on the file of the Motor Accident Claims Tribunal, Special Sub Judge No.II, Villupuram.

For Appellant : Ms.V.Suguna

For R2 : Mr.G.Sugumari



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JUDGMENT

WEB COPY This appeal has been filed by the appellant/claimant challenging the compensation awarded by the Tribunal in M.C.O.P.No.583 of 2019, dated 15.07.2022.

2.The claim petition was filed by the appellant stating that on 07.12.2018 at about 10.00 a.m., while the appellant was performing his duty as Police Constable, the lorry insured with the 2nd respondent/Insurance company driven by its driver in a rash and negligent manner, dashed against the appellant causing grievous injuries to him; that the appellant was entitled for compensation.

3.The 1st respondent/owner of the offending vehicle remained *ex-parte* before the Tribunal.

4.The 2nd respondent/Insurance Company resisted the claim petition stating that the accident did not take place in the manner alleged by the appellant; that the driver of the lorry did not have valid driving license; that in any case, the compensation claimed was excessive and prayed for dismissal of the claim petition.



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5.Before the Tribunal, the appellant examined himself as P.W.1 and marked Ex.P.1 to Ex.P.18 on his side. The 2nd respondent did not examined any evidence or marked any document.

6.The Tribunal after considering the evidence on record awarded a sum of Rs.2,41,261/- as compensation to the appellant.

7.Aggrieved over the award passed by the Tribunal, the appellant filed the present appeal seeking for enhancement of compensation.

8.The learned counsel for the appellant submitted that the Tribunal had not awarded any compensation under the head disability; that the compensation awarded by the Tribunal under other heads is meagre and hence, prayed for enhancement of compensation.

9.The learned counsel for the appellant submitted that the 1st respondent remained *ex-parte* before the Tribunal and he prayed to dispense with notice to the 1st respondent and he had also made an endorsement to that effect. Hence, notice to the 1st respondent is dispensed with.



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10.The learned counsel for the 2nd respondent per contra submitted that the compensation awarded by the Tribunal is just and reasonable and hence, no interference is called for and therefore, prayed for dismissal of the appeal.

11.The only question involved in the instant appeal is whether the compensation awarded by the Tribunal is just and reasonable?

12.On perusal of records, it is seen that the appellant was examined by the Doctor and on examination, the Doctor had assessed the disability as nil. Hence, the Tribunal had not awarded any compensation under the head disability, which cannot be faulted. However, this Court is of the view that the compensation awarded by the Tribunal under the head transportation expenses and pain and sufferings is meagre and hence, a sum of Rs.5,000/- awarded under the head transportation is enhanced to Rs.10,000. Similarly a sum of Rs.60,000/- awarded by the Tribunal under the head pain and sufferings is enhanced to Rs.1,00,000/-. The compensation awarded by the Tribunal under other heads is just and reasonable and hence, the same are confirmed. Thus, the compensation



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awarded by the Tribunal is modified as follows:-

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S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Income	-	-	Confirmed
2.	Transportation Expenses	5,000	10,000	Enhanced
3.	Pain and Sufferings	60,000	1,00,000	Enhanced
4.	Nutrition and other requirements	20,000	20,000	Confirmed
5.	Attender Charges	20,000	20,000	Confirmed
6.	Damages to Clothes	5,000	5,000	Confirmed
7.	Future losses	20,000	20,000	Confirmed
8.	Medical Expenses	1,16,261	1,16,261	Confirmed
	Total	2,46,261	2,91,261	Enhanced by Rs.45,000/-

13. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,46,261/- is hereby enhanced to Rs.2,91,261/-, together with interest at 7.5% per annum (excluding the default period, if any) from the date of petition till the date of deposit. The 2nd respondent/Insurance Company is



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directed to deposit the award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of six (6) weeks from the date of receipt of a copy of this Judgment. On such deposit, the appellant is entitled to withdraw the entire award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn. The appellant is directed to pay the necessary Court fee, if any, on the enhanced award amount. No costs.

11.09.2023

rst/dpa

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To:

- 1.The Motor Vehicle Accident Tribunal,
Special Sub Judge No.II,
Villupuram.
- 2.The Section Officer,
VR Section,
High Court, Madras.



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SUNDER MOHAN, J.

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