



CMA.No.2399 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2023

CORAM: JUSTICE N.SESHASAYEE

CMA.No.2399 of 2023

Thangamani

... Appellant

-Vs-

1.Asen
2.The Divisional Manager,
Royal Sundaram Alliance General Insurance,
- Company Limited,
Subramaniam Building, 2nd Floor,
No.1, Club House Road, Chennai.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the M.V.Act, 1988, against the Judgment and Decree dated 15.09.2017 and made in M.A.C.T.O.P.No.413 of 2016 on the file of the Motor Accident Claims Tribunal, the Special Sub Court, Tiruvannamalai.

For Petitioner	: M/s.M.Malar
For R1	: Notice D/W Vide order dt 05.10.2023
For R2	: M/s.C.Harini

JUDGMENT

The claimant in MCOP.No.413 of 2016 on the file of Motor Accident Claims Tribunal, Special Sub Court, Thiruvannamalai has approached



CMA.No.2399 of 2022

this Court with this Appeal seeking enhancement of compensation for the injury he has suffered in a road accident that took place on 20.06.2016 at around 4.40 p.m, when he was riding his motor cycle bearing Registration No.TN 11 A 7543. The accident had occasioned when a Goods Carrier bearing Regn.No.TN 25 BA 0698 insured with the second respondent herein collided with the motor cycle due to the rash and negligent driving of the driver of the Goods Vehicle. In the accident, the petitioner suffered couple of lacerated injuries to his right leg, besides fracture of his tibia. The Medical Board had assessed the permanent disability of the appellant at 20% and the Tribunal had fixed the compensation payable for his permanent disability at Rs.60,000/- and after adding the compensation under the other conventional heads, the Tribunal had arrived at a total sum of Rs.85,000/-. This is now under challenge.

2.The learned counsel for the appellant submitted that due to the injury suffered, the petitioner's mobility is seriously affected and in fitness of things, the Tribunal ought to have awarded compensation treating the disability as functional disability.



CMA.No.2399 of 2022

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3.Per contra, learned counsel for the second respondent submitted that the injury though might have been described as permanent disability but, there is no evidence to indicate that it has resulted in functional disability and defended the Award passed.

4.After carefully evaluating the rival submissions and also taking into account the age of the victim at 40 years and given the fact he is an agriculturist, this Court considers it necessary to enhance the compensation payable on this ground. Accordingly, Rs.5,000/- is awarded for every percentage of disability. Accordingly, the appellant will be entitled to Rs.1,00,000/- on the head of permanent disability. On the ground of extra nourishment, this Court deems it appropriate to grant another Rs.10,000/- making it Rs.15,000/-. In all, the Appellant would be entitled to Rs.1,35,000/- (Rupees One Lakh and Thirty Five Thousand only) with interest.

5.The compensation awarded by the Tribunal under other heads are just and reasonable and hence, the same are confirmed. Thus, the



CMA.No.2399 of 2022

compensation awarded by the Tribunal is enhanced from Rs.85,000/- to Rs.1,35,000/-, break-up as follows -

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability(20%)	60,000/-	1,00,000/-	Enhanced
2.	Pain and Sufferings	20,000/-	20,000/-	Confirmed
3.	Extra Nourishment	5,000/-	15,000/-	Enhanced
	Grand Total	85,000/-	1,35,000/-	Enhanced by 50,000/-

6. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.85,000/- is hereby enhanced to Rs.1,35,000/- 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 second respondent / Insurance Company is directed to deposit the award amount, now determined by this Court along with interest and costs, less the amount already deposited, if any,



CMA.No.2399 of 2022

within a period of six (6) weeks from the date of a receipt of copy of this Judgment. On such deposit, the appellant is permitted to withdraw the 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.

13.10.2023

Tsg

To

- 1.The Motor Accident Claims Tribunal,
The Special Sub Court, Tiruvannamalai.
- 2.The Section Officer,
V.R.Section, High Court, Madras.



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CMA.No.2399 of 2022

N.SESHASAYEE, J.,

Tsg

CMA.No.2399 of 2023

13.10.2023