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C.M.A.No.3248 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.3248 of 2019

J.Munusamy

... Appellant

Vs.

1. The Chairman,
Jayam College of Engineering & Technology,
Hogenakkal Main Road,
Nallanur,
Dharmapuri – 636 813.

2. M/s.National Insurance Company Ltd.,
II Floor, Maruthi Complex,
F215, Omalur Main Road,
Salem – 636 004.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree made in MCOP No.464 of 2017 dated 14.12.2018 on the file of Motor Accident Claim Tribunal (the Special District Judge), Dharmapuri for enhancement of award.

For Appellant : Mr.S.Sathiaselan

For Respondents : No Appearance [R1]



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Mr.S.Arun Kumar [R2]

JUDGMENT

The above appeal is filed by the appellant/claimant seeking an enhancement of the compensation awarded by the Motor Accident Claim Tribunal (the Special District Judge), Dharmapuri in MCOP No.464 of 2017 dated 14.12.2018.

2. Though the notice was served on the first respondent, however, no one appeared on his behalf. Considering the period of pendency of the appeal, the same is disposed of based on the materials available on record.

3. It is the case of the appellant that, on 20.02.2017 when the appellant was proceeding in the two wheeler bearing Registration No.TN 29 AF 1635 from Dharmapuri to Nagadasampatti, at that time a car bearing Reg.No.TN 29 AM 8262 came in a rash and negligent manner from the opposite side and dashed against the two wheeler, due to which the appellant sustained grievous injuries and was admitted in the



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Hospital. Thereby, the appellant / claimant filed a claim petition before the Tribunal seeking a compensation for a sum of Rs.10,00,000/- for the injuries sustained by him due to the said accident.

4. Before the Tribunal, the appellant had examined himself as P.W.1 and marked 17 documents viz., Ex.P.1 to Ex.P.17. On the side of the respondents, neither any witness was examined nor any documents were marked. After adjudication, the Tribunal awarded a sum of Rs.5,79,000/- as compensation to the appellant. Not satisfied with the same, the appellant has preferred the present appeal seeking enhancement.

5. The learned counsel appearing for the appellant submitted that, though the accident is of the year 2017, however the Tribunal has fixed only a sum of Rs.3,000/- per percentage of disability instead of Rs.5,000/- per percentage of disability and granted a sum of Rs.1,50,000/- (3000 x 50) under the head future loss of income, as the disability of the injured is 50% as per Ex.X1 which is the disability certificate. The other heads granted in favour of the appellant is also meagre and the same requires



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interference. Accordingly, he prays for appropriate enhancement in favour of the appellant.

6. The learned counsel appearing for the second respondent/Insurance Company fairly submitted that instead of awarding a sum of Rs.5,000/- per percentage of disability the Tribunal awarded a sum of Rs.3,000/- which is on the lower side. Hence, this Court may enhance the same under the head future loss of income. Admittedly, the disability assessed by the Medical is 50% partial permanent disability for which the compensation awarded under the head loss of amenities would not arise and the same requires interference. Accordingly, he prayed for passing appropriate orders.

7. Heard the learned counsel appearing for the appellant and the learned counsel appearing on behalf of the second respondent and perused the materials available on record.

8. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The only



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grievance of the appellants/claimants is with regard to the quantum of compensation awarded especially the compensation awarded under the head loss of income. Though the accident occurred during the year 2017 however, the Tribunal ought to have fixed a sum of Rs.5,000/- per percentage of disability, without doing so, the Tribunal erroneously fixed a sum of Rs.3,000/- under the head future loss of income and awarded a sum of Rs.1,50,000/- (3000 x 50) which is on the lower side and the same requires interference. Hence, this Court is inclined to fix a sum of Rs.5,000/- per percentage of disability. Therefore, the amount under the head disability stands enhanced to a sum of Rs.2,50,000/- (50 x Rs.5,000/- = Rs.50,000/-). As the Medical Board assessed the disability of the injured as 50% partial permanent disability, therefore, the compensation awarded under the head loss of amenities would not arise and the same requires interference.

9. Further, the Tribunal had awarded a sum of Rs.50,000/- towards pain and suffering which is on the lower side and the same is enhanced to Rs.75,000/-; Rs.30,000/- towards extra nourishment which is meagre and the same is enhanced to Rs.50,000/-. This Court finds that the



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compensation awarded under other heads are just and reasonable and does not require any interference.

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

<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	Compensation for future loss of income (5000 x 50)	1,50,000/-	2,50,000/- (enhanced)
2	Pain and Suffering	50,000/-	75,000/- (enhanced)
3	Extra nourishment expenses	30,000/-	50,000/- (enhanced)
4	Attender charges	20,000/-	20,000/-
5	Medical expenses	2,09,000/-	2,09,000/-
6	Loss of amenities	75,000/-	-
7	Transport charges	45,000/-	45,000/-
	Total	5,79,000/-	6,49,000/-

11. Accordingly, this appeal is partly allowed and the compensation amount is enhanced from Rs.5,79,000/- to Rs.6,49,000/- and the second respondent/Insurance Company is directed to deposit the compensation amount, awarded by this Court above, to the credit of



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M.C.O.P.No.464 of 2017 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 weeks (6) from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellant/claimant through RTGS within a period of two weeks thereafter upon production of proof with regard to payment of Court fee on the enhanced compensation. The appellant/claimant is directed to pay necessary additional Court fee on the enhanced compensation amount. There shall be no order as to costs in the present appeal.

07.12.2023

Index : Yes / No

Speaking order / Non-speaking order : Yes / No

Netrual Citation Case : Yes / No

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To

1. Motor Accident Claim Tribunal (the Special District Judge),
Dharmapuri

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



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M.DHANDAPANI, J.

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