



C.M.A.No.2523 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2023

CORAM:

THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

C.M.A.No.2523 of 2021

Srinivasan

... Appellant

VS.

1.G.Venkatesan

2.United India Insurance Company Limited,
Katpadi Road,
Vellore.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree dated 12.10.2017 and made in M.A.C.T.O.P.No.61 of 2015 on the file of the Motor Accident Claims Tribunal, Sub Ordinate Judge, Vaniyambadi.

For Appellant : Mr.A.G.F.Terry Chella Raja

For Respondents : Mr.M.J.Vijayaraghavan [R2]



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R1 – Notice Dispensed with

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JUDGMENT

This Civil Miscellaneous Appeal is filed by the appellant/claimant herein against the judgment and decree passed in M.A.C.T.O.P.No.61 of 2015, dated 12.10.2017 on the file of the Motor Accident Claims Tribunal, Sub Ordinate Judge, Vaniyambadi, for enhancement of compensation.

2. The claim petition was filed under Section 166 of the Motor Vehicles Act, 1988 for the injuries sustained by him during the accident that had taken place on 10.03.2015.

3. The learned Tribunal, after hearing both sides argument and based on the oral and documentary evidence available on record has passed an award for a sum of Rs.42,850/- with 6% interest from the date of filing of the petition till the date of deposit.

4. The learned counsel for the appellant would vehemently argue that as the appellant sustained fracture of left clavical bone



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and had taken treatment at the Government Hospital, Vaniyambadi later at the Government Hospital, Vellore as inpatient from 10.03.2015 to 13.03.2015 and thereafter taken treatment at Ragiv Gandhi Government General Hospital, Chennai. The details of the injury sustained by the claimant on which have bearing the loss of earning capacity were not taken into consideration by the Tribunal while awarding compensation. He would further contend that less amount was ordered under the head of Pain and Sufferings and Extra Nourishment and no amount was ordered under the head of Attender Charges and Transport Expenses and therefore, prayed for to enhance the compensation.

5. Per contra, the learned counsel for the Insurance Company would contend that as the Tribunal has awarded an amount of Rs.2,850/- for X-ray charges and Rs.40,000/- is granted for pain and suffering and for Extra Nourishment. He would fairly concede that as no amounts are granted under the other heads, reasonable amount of compensation may be ordered, considering the age, injury sustained by the appellant/claimant from the period of treatment



taken by him.

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6. Heard the rival submissions put forth by the learned counsels of both sides and perused the entire materials available on record.

7. There is no dispute as to the manner in which the accident had taken place. It is the evidence of PW1 that on account of the accident, he sustained fracture of left clavical bone. It appears that at the first instance, the appellant/claimant was taken to the Government Hospital, Ambut, Vaniyambadi and thereafter, to the Medical College Hospital at Vellore and he was given treatment as inpatient from 10.03.2015 to 13.03.2015. It is pertinent to note that the Medical Board has issued the Discharge Certificate-Ex.C1 that the claimant does not suffer from disability. Admittedly, the appellant/claimant had taken treatment in the Government Hospitals. Since because a person has taken treatment in the Government Hospitals, it does not mean that he has not spent any amount towards medical expenses. Considering the said aspect, as the



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claimant had sustained fracture over left clavical bone an amount of Rs.5,000/- is granted towards Medical Expenses. Considering the fact that the appellant/claimant had sustained fracture over left clavical bone, atleast an attender would have help him while he was an inpatient in the hospital. Therefore, in respect of attender charges and for transportation as no amount is ordered, this Court deems fit to order a sum of Rs.8,000/-. The appellant/claimant is said to be a worker in a shoe company, earning a sum of Rs.10,000/- p.m., to substantiate the same, no documentary proof was filed by the appellant. In the light of the law laid down by the Hon'ble Supreme Court in **Syed Sadiq v. Divisional Manager, United India Insurance Co. Ltd.**, reported in **2014 (1) TN MAC 459(SC)**, the Hon'ble Supreme Court fixed the income of a vegetable vendor aged about 24 years, for the accident that had taken place in the year 2008, notional income was fixed at Rs.6,500/-. The date of accident is 10.03.2015. Therefore, relying upon the observation made by the Hon'ble Supreme Court, this Court deems fit to fix the income of the appellant/claimant at Rs.8,000/- p.m., and taking into account of the fact that he has sustained fracture over left clavical an amount of



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Rs.16,000/- for two months is granted for loss of income. The Tribunal had awarded compensation with 6% interest is modified to 7.5% interest p.a., from the date of petition till the date of deposit. In all other aspects, the amount awarded by the Tribunal appears to be reasonable and hence needs no interference. Therefore, the Compensation awarded by the Tribunal is reworked as tabulated below:

Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	X-ray Charges	Rs. 2,850/-	Rs. 2,850/-	Confirmed
2	Pain and Sufferings & Extra Nourishment	Rs.40,000/-	Rs. 20,000/-	Reduced
3	Medical Expenses	Nil	Rs. 5,000/-	Granted
4	Attender Charges and Transportation	Nil	Rs. 8,000/-	Granted
5	Loss of Income for two months	Nil	Rs. 16,000/-	Granted
	Total	Rs.42,850/-	Rs.69,850/-	
	Rounded of to	Rs.43,000/-	Rs.52,000/-	



8. Thus, the compensation awarded by the Tribunal is enhanced from Rs.43,000/- to Rs.52,000/- which would carry interest at the rate of 7.5% per annum from the date of petition till the date of realisation.

9. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.43,000/- to Rs.52,000/-.

(iii) The 2nd respondent / Insurance Company is directed to deposit the enhanced compensation amount i.e., Rs.52,000/-(less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.61 of 2015 on the file of Motor Accident Claims Tribunal, Sub-Ordinate Judge, Vaniyambadi, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the appellant / claimant is at liberty to withdraw the same on filing of cheque petition. The



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claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Tribunal below shall disburse the enhanced amount upon production of the certified copy showing proof of payment of Court fee by the claimant.

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Index : Yes/No

Speaking / Non-speaking order

ssn

To:

1. The Motor Accident Claims Tribunal,
Sub-Ordinate Judge, Vaniyambadi.
2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.

R.KALAIMATHI, J.,

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