



WEB COPY



C.M.A.No.1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.06.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

CMA.No. 1262 of 2022

Vikranth

...Appellant

Vs.

1.N.Kumar

2.M/s.Royal Sundaram Alliance Insurance Co. Ltd.,
No.8/H1, Mangalam Building,
4 Roads, Salem-636 009.

...Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 challenging the Award and Decree dated 08.10.2021 passed in M.C.O.P.No. 975 of 2011 on the file of the Motor Accidents Claims Tribunal (Sub-Court) at Sankari, Salem District.

For Appellant : Mr.T.Saikrishnan

For R-1 : Mr.T.Deeraj
for M/s. P.V.Law Associates

For R-2 : Mr.G.Vasudevan



C.M.A.No.1- - - - -

JUDGMENT

This appeal is filed challenging the Award and Decree passed in M.C.O.P.No.975 of 2011 on the file of the Motor Accidents Claims Tribunal (Sub-Court) at Sankari, Salem District.

2. The claimant has filed the above appeal for enhancement of compensation. According to the claimant, on 08.09.2011 while he was riding his two wheeler along with the pillion rider, the driver of Ashok Leyland lorry drove the vehicle in a rash and negligent manner, applied the brake suddenly without any signal and caused the accident. Due to the accident, the claimant sustained multiple grievous injuries all over the body.

3. The claimant states that he was a marketing executive in a private company and earning more than Rs.15,000/- per month. The claimant therefore filed the claim petition seeking a sum of Rs.25,00,000/- as compensation for the injuries sustained by him in the motor accident.



4. The first respondent remained ex-parte before the Claims Tribunal and the claim petition was contested by the second respondent/Insurance company. The second respondent in its counter, apart from denying the manner of accident disputed the negligence, quantum and liability.

5. Before the Claims Tribunal, the claimant examined himself as P.W.1 and marked Ex.P.1 to Ex.P.23 in support of the claim. On the side of the respondents neither any oral evidence was let in nor documentary evidence was filed. The disability certificate issued by the Medical Board was marked as Ex.C.1.

6. The Claims Tribunal on an assessment of the entire evidence on record, rendered a finding of negligence against the driver of the first respondent, assessed the compensation at Rs.11,04,500/- along with 7.5% interest and mulcted the liability on the second respondent/Insurance company.

7. The learned counsel for the appellant submitted that the award passed by the Claims Tribunal towards permanent disability is erroneous and



C.M.A.No.1-2024-2025

unsustainable. The learned counsel further submitted that considering the nature of injuries sustained by the claimant as also the permanent disability, the Claims Tribunal ought to have adopted multiplier method instead of unit method. The learned counsel fairly submitted that as far as the award under other heads are concerned, he was not disputing the same.

8. The learned counsel for the second respondent/Insurance company, on the other hand, submitted that the award passed by the Claims Tribunal was just, fair and reasonable and did not call for any interference by this Court.

9. I have heard both the learned counsels and have perused the materials placed on record.

10. It is seen that the claimant suffered grievous injuries *viz.*, laceration over left ear, right arm, left forearm, left thigh open wound, CT brain- Right temporal, left frontal, SP herotdal bone, Phenmacephelus of features of cerebral odema, left ribs bone fracture and multiple simple injuries all over the body, which is evidenced by the discharge summary marked as Ex.P.10 and Ex.P.11.



C.M.A.No.1

The Medical Board assessed the disability of the claimant and certified that the claimant sustained 35% permanent disability. The Claims Tribunal even without discussing the functional disability straight away adopted the unit method. The photographs showing disability suffered by the claimant were marked as Ex.P.13 series. It is seen from Ex.P.13 series, that the injuries suffered by the claimant were serious and would definitely impact his earning capacity. I am therefore of the view that the functional disability can be assessed at 20%. Hence, the compensation assessed by the Claims Tribunal towards permanent disability needs to be modified by adopting the multiplier method. The Tribunal assessed the notional income at Rs.10,000/- per month. 40% of the income is added towards future prospects. As the claimant was aged 27 years at the time of the accident the multiplier '17' is adopted. As the functional disability is assessed at 20%, the compensation towards disability is arrived at Rs.5,71,200/- $(10,000 \times 40 / 100 = 4,000 + 10,000 = 14,000 \times 12 \times 20 / 100 \times 17 = 5,71,200/-)$. The award towards other heads is confirmed, as the same is found to be fair, just and reasonable.



11. In view of the above discussion, the award of the Claims Tribunal is modified as follows:

S.No	Various Heads	Award by Tribunal (amount in Rs.)	Award by this Court (amount in Rs.)
1.	Loss of disability	1,05,000/-	5,71,200/-
2.	Pain and Sufferings	1,00,000/-	1,00,000/-
3.	Medical Expenses	6,74,500/-	6,74,500/-
4.	Loss of Income during Treatment period	1,20,000/-	1,20,000/-
4.	Nutritious Food	50,000/-	50,000/-
5.	Transport charges	25,000/-	25,000/-
6.	Loss of income for dependent	20,000/-	20,000/-
7.	Loss of Amenities	10,000/-	10,000/-
Total Compensation		11,04,500/-	15,70,700/-

The claimant shall be entitled to enhanced compensation of Rs.4,66,200/- (15,70,700 - 11,04,500= 4,66,200/-) along with 7.5% interest.

12. It is submitted by the learned counsel for the second respondent/Insurance company that the entire amount awarded by the Tribunal is already deposited and hence a direction is issued to the second respondent/ Insurance company to deposit the balance of the enhanced amount of Rs.4,66,200/- along with 7.5% interest from the date of claim



C.M.A.No.1

petition till the date of deposit within a period of six (6) weeks from the date of receipt of copy of this Judgment. On such deposit being made, the claimant shall be entitled to withdraw the same by filing proper application before the Claims Tribunal.

In the result, this Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs.

27.06.2023

Index:Yes/No
Speaking Order: Yes/No
Neutral Citation: Yes/No
dsn



C.M.A.No.1

To
The Subordinate Judge,
Motor Accidents Claims Tribunal,
Sankari,
Salem District.

Copy to
The Section Officer,
V.R.Section,
High Court, Madras.



WEB COPY



C.M.A.No.1-----

N.MALA.J.

dsn

C.M.A.No.1262 of 2022

27.06.2023