



C.M.A.No.1514 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 12.06.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

CMA.No.1514 of 2022

R.Senthil Kumar

...Appellant

Vs.

1.R.Shantha

2.The New India Assurance Co. Ltd.,
Motor Third party Claims HUB,
Bombay Mutual Buildings, 6th Floor,
No.232, N.S.C. Bose Road,
Chennai-600 001.

3.The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
(Trichy Divn.), Kumbakonam.

....Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Judgment and Decree passed in M.C.O.P.No.6603 of 2016 dated 20.01.2020 on the file of Principal Special Judge, Special Court under E.C. & NDPS Act. (Motor Accidents Claims Tribunal), Chennai.



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For Appellant : Mrs.P.T.Saleem Fathima

For R-1 : No Appearance

For R-2 : Mr.J. Chandran

For R-3 : Mr.C. Senapathi

JUDGMENT

This appeal is filed challenging the Judgment and Decree passed in M.C.O.P.No.6603 of 2016 dated 20.01.2020 on the file of Principal Special Judge, Special Court under E.C. & NDPS Act. (Motor Accidents Claims Tribunal), Chennai.

2. The appeal is filed by the claimant seeking enhancement of compensation.

The brief facts of the case are that, on 10.09.2016 at about 20.00 hours, when the claimant was travelling in a bus belonging to 3rd respondent herein from South to North direction on Chennai- Madurai National High Ways, a lorry driven by its driver in a rash and negligent manner, dashed against the bus, due to which the claimant sustained grievous injuries. He therefore filed the claim petition seeking compensation of Rs.63,00,000/-. The Claims Tribunal on an assessment



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of the entire evidence on record awarded a sum of Rs.10,43,750/- @ 7.5% interest.

3. The learned counsel for the appellant submits that the Tribunal erred in assessing the income of the claimant at Rs.10,000/- per month and the Tribunal has miserably failed to award reasonable amounts towards Attender charges, Transport charges and Nutritious food expense. The learned counsel further submitted that, as the claimant suffered amputation of his right leg below knee, the Tribunal ought to have awarded fair and reasonable sum towards pain and suffering and loss of amenities.

4. The learned counsel for the respondent 2 and 3 on the other hand, submits that the impugned Award passed by the Claims Tribunal is just, fair and reasonable and does not call for any interference by this Court.

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



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6. It is seen that the claimant was aged 41 years at the time of the accident and was an Agriculturist cum Mason. The income claimed by the claimant was Rs.25,000/- per month. The Claims Tribunal, in the absence of any evidence, assessed the notional income at Rs.10,000/- per month. Considering the year of accident and the age of the claimant and also the cost escalation for the year 2016, I am of the view that the income of the claimant can be fixed notionally at Rs.15,000/- per month. Therefore, the award towards disability is quantified at Rs.12,60,000/- ($\text{Rs.15,000} \times 12 \times 14 \times 50 / 100 = 12,60,000/-$). It is seen that the Claims Tribunal has not awarded any amount towards Transportation Charges, Attender Charges and Nutrious Food expense. It is seen that the claimant was hospitalised from 10.09.2016 to 26.09.2016 i.e for 16 days and he had also undergone two surgeries during that period. The amount towards each of the aforesaid 3 heads is fixed at Rs.15,000/-. Therefore, on the facts of the case, I am of the view that the award of the Claims Tribunal needs to be modified and the same is modified as follows:

S.No.	Various Heads	Award by Tribunal (amount in Rs.)	Award by this Court (amount in Rs.)
1.	Compensation for disability	8,40,000/-	12,60,000/-



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S.No.	Various Heads	Award by Tribunal (amount in Rs.)	Award by this Court (amount in Rs.)
2.	Medical Bills	1,50,750/-	1,50,750/-
3.	Attender charges Transport charges Nutritious Food	3,000/-	15,000/- 15,000/- 15,000/-
4.	Pain and suffering	25,000/-	50,000/-
5.	Loss of Amenities	25,000/-	3,000/-
Total Compensation		10,43,750/-	15,08,750/-

7. The claimants shall be entitled to further sum of Rs.4,65,000/- as compensation along with 7.5% interest.

8. The learned counsel for the second respondent submits that entire award amount has already been deposited. In view of the same, the Insurance Company is directed to deposit the enhanced compensation amount of Rs.4,65,000/- along with 7.5% interest from the date of claim petition till the date of deposit within a period of six (6) weeks from the date of receipt of a copy of the Judgment. On such deposit being made, the claimant shall withdraw the same.

In the result, this Civil Miscellaneous Appeal is partly allowed.



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There shall be no order as to costs.

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Index: Yes/No

Speaking Order: Yes/No

Neutral citation: Yes/No

To



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The Principal Special Judge,
Special Court under EC and NDPS Act,
Motor Accidents Claims Tribunal,
Chennai.

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



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N.MALA.J.,

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