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C.M.A.No.4140 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.4140 of 2019

Ponnan

... Appellant

Vs.

1.Administrative Director
Fast Track Call Cab Private Ltd.

2.The Manager,
United India Insurance Company Ltd.,
Chennai District,
Chennai 600 014.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award and judgment made in M.C.O.P.No.180 of 2014 on the file of the Motor Accidents Claims Tribunal cum Additional District Sessions Judge, Ariyalur District dated 06.12.2018.

For Appellant : Mr.K.P.P.Raja Raja Chozhan

For Respondents : R1 – NRN
Mr.J.Chandran for R2



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This appeal has been filed seeking to set aside the judgment and decree dated 06.12.2018 passed by the Motor Accidents Claims Tribunal cum Additional District Sessions Judge, Ariyalur District, in M.C.O.P.No.180 of 2014.

2.The learned counsel appearing for the appellant submitted that on 20.02.2014 at about 5 hours in the early morning, the appellant claimant transported sand in the bullock cart from Anaikkarai and returned to his Village in Kumbakonam – Chennai Main Road in North to South direction, opposite to Veerachozhapuram Chettiyar Provisional Shop. At that time, a TATA Indica Manza Car bearing Registration No.TN-01-AU-8383 belonging to the first respondent and insured with the second respondent came in the same direction in a rash and negligent manner and dashed against the bullock cart, due to which, the appellant sustained injuries.

3.The learned counsel appearing for the appellant further submitted that thereafter, the injured claimant/ appellant filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.10 Lakhs. Initially, the Tribunal passed exparte



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order. Thereafter, the Insurance Company filed restoration petition before the Tribunal and thereafter, the claim petition was restored. Thereafter, the Tribunal passed the impugned award. The learned counsel further submitted that the amount awarded by the Tribunal is meagre and hence, the appellant claimant has filed this appeal for enhancement of compensation.

4.The learned counsel appearing for the second respondent Insurance Company submitted that the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference.

5.Heard the learned counsel appearing for the appellant claimant as well as the learned counsel appearing for the second respondent Insurance Company and perused the materials available on record.

6.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only questioning the quantum of compensation.



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7.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.1,80,000/- for disability, Rs.30,000/- for pain and sufferings, Rs.30,000/- for loss of income, Rs.10,000/- for extra nourishment, Rs.10,000/- for transportation expenses, Rs.10,000/- for medical expenses, Rs.15,000/- for bullock cart, Rs.10,000/- for bullock and arrived at a total compensation of Rs.2,86,000/- with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit and costs and directed the second respondent to deposit the compensation.

8.The Doctor has assessed the disability of the injured claimant as 60%. Since the assessment of disability varies from Doctor to Doctor, this Court fix the disability of the claimant as 50% and at the relevant point of time Rs.4,000/- per percentage of disability was awarded. Hence, amount awarded for disability works out to Rs.2,00,000/- [50% X Rs.4,000/- = Rs.2,00,000/-]. The amount awarded under the head pain and suffering, in the opinion of this Court is low and this Court is inclined to enhance the amount awarded under the said head. Accordingly, the amount awarded for pain and suffering is enhanced to Rs.50,000/- from Rs.30,000/-. The amount awarded under the heads extra nourishment and transport expenses are just



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and reasonable and the same are confirmed. The amount awarded under the head medical expenses is also confirmed. Since there is no proof for income, the amount awarded under the head loss of income is reduced to Rs.15,000/- from Rs.30,000/-. Since there is no damage to the bullock cart or the bullock, the amount awarded under the said heads are deleted.

9. Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Disability	Rs.1,80,000/-	Rs.2,00,000/-
2.	Extra nourishment	Rs. 10,000/-	Rs. 10,000/-
3.	Transport expenses	Rs. 10,000/-	Rs. 10,000/-
4.	Loss of income	Rs. 30,000/-	Rs. 15,000/-
5.	Medical expenses	Rs. 1,000/-	Rs. 1,000/-
6.	Pain and sufferings	Rs. 30,000/-	Rs. 50,000/-
7.	For bullock cart	Rs. 15,000/-	---
8.	For bullock	Rs. 10,000/-	---
	Total	Rs.2,86,000/-	Rs.2,86,000/-

10. The appellant claimant is entitled to total compensation of Rs.2,86,000/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit.



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11.The civil miscellaneous appeal is accordingly disposed of. The judgment and decree of the Motor Accidents Claims Tribunal cum Additional District Sessions Judge, Ariyalur District in M.C.O.P.No.180 of 2014 dated 06.12.2018, is modified to the above extent. No costs.

12.The second respondent Insurance Company is directed to deposit the modified award amount before the Tribunal within a period of four weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such deposit being made, the appellant/ claimant is permitted to withdraw the modified award amount, along with accrued interest and costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellant/ claimant shall not be entitled to any interest for the period of delay, if any, in filing the appeal.

01.12.2023

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

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1.The Motor Accidents Claims Tribunal Cum
Additional District Sessions Judge, Ariyalur District.

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M.DHANDAPANI,J.
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