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C.M.A.No.1592 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2023

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.No.1592 of 2020

Nagaraj

.. Appellant

Vs.

1.K.Sakthivel

2.Cholamangalam MS General Ins. Co. Ltd.,
No.131/25-A, Adhiyaman by-pass Road,
(Natajaji) Smart Shopping Mall Opposite,
Dharmapuri District.

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 18.12.2019 made in M.C.O.P.No.647 of 2018 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate's Court, Dharmapuri.

For Appellant : Mr.D.Rameshkumar

For R2 : Ms.C.Harini
for M/s.M.B.Gopalan Associates



J U D G M E N T

Not being satisfied by the compensation awarded by the Motor Accidents Claims Tribunal / Chief Judicial Magistrate, Dharmapuri, in M.C.O.P.No.647 of 2018 on 18.12.2019, the appellant / claimant has preferred this Civil Miscellaneous Appeal for enhancement of the compensation.

2.The claim petition was filed under Section 166 of the Motor Vehicles Act, 1988, claiming compensation of Rs.15,00,000/- for the injuries sustained by him in the motor accident that occurred on 21.12.2017.

3.The learned Tribunal after hearing both sides arguments and upon considering the oral and documentary evidence has granted compensation for an amount of Rs.2,00,000/-, along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit.

4.Mr.D.RameshKumar, learned counsel for the appellant would strenuously contend that the appellant / claimant was aged about 48 years has lost his left ring finger due to the accident that occurred on 21.12.2017. He is



an Agriculturist and doing Tamarind business and earning a sum of Rs.25,000/- per month at the relevant point of time. The Tribunal has granted compensation for the disability suffered by the appellant as Rs.60,000/- is very less. He would also contend that the amounts awarded for pain and sufferings, transportation and for extra nourishment are insufficient. The learned counsel would also submit that no amount was granted for attendant charges and prayed for enhancement of compensation.

5.Per contra, Ms.C.Harini, learned counsel for the 2nd respondent – Insurance Company would vehemently argue that the appellant has taken inpatient treatment from 21.12.2017 to 27.12.2017 only for seven days, which is extracted in Ex.P2 / discharge summary. No further treatment records are available. Considering the age and avocation of the appellant / claimant, the Tribunal has granted Rs.60,000/- for disability, which is quite reasonable. She would further contend that the amounts awarded under other heads also appear to be reasonable and hence need not be interfered with and prayed for dismissal of the appeal.

6.Heard the learned counsel for the appellant and the learned counsel



for 2nd respondent – Insurance Company and perused the materials available on record.

7.From the evidence of appellant / P.W.1, it transpires that on 21.12.2017 at about 10.35 P.M., while he was proceeding in the motorcycle bearing Registration No.TN 29 AB 3906 along Dharmapuri to Madhikonpalayam junction road, a Tata Ace goods carriage vehicle bearing Registration No.TN 29 AB 8994 belonging to 1st respondent, dashed against the appellant / claimant and sustained injuries, is not in dispute.

8.It is the evidence of P.W.1 / appellant that he was given initial treatment at the Government Hospital, Dharmapuri and thereafter it appears that he was treated as an inpatient at Ganga Hospital, Coimbatore. As per Ex.P11 / disability certificate, the Medical Board has assessed the disability of the appellant / claimant as 20%. As regards, the injuries are concerned, the appellant / claimant has lost his left ring finger. The appellant / claimant was aged about 48 years, is stated to be an Agriculturist and doing Tamarind business. As an Agriculturist, with the above said disability, he would find some difficulties while doing the agricultural work and in lifting the heavy



objects. Considering the age, avocation and disability suffered, this Court deems fit that a sum of Rs.4,000/- per percentage of disability would serve the purpose. Hence, a sum of Rs.20,000/- is granted in addition to the amount already awarded for the disability suffered by the appellant / claimant herein.

9.That apart, it appears that the appellant / claimant had taken treatment at the Government Hospital, Dharmapuri and thereafter he was admitted at Ganga Hospital, Coimbatore. Therefore, a sum of Rs.7,000/- is granted in addition to the amount already granted by the Tribunal for transport expenses.

10.The appellant / claimant has lost his left ring finger due to the injuries sustained on account of the accident, this Court deems fit to award a sum of Rs.5,000/- for pain and sufferings undergone in addition to the amount already awarded. For attendant charges, a sum of Rs.8,000/- is granted.

11.In all other aspects, the amounts awarded by the Tribunal appears to be reasonable and hence, the same needs no interference.



12.Thus, the compensation awarded by the Tribunal is modified and tabulated as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability	60,000/-	80,000/-	Enhanced
2.	Medical bills	1,18,000/-	1,18,000/-	Confirmed
3.	Pain and sufferings	10,000/-	15,000/-	Enhanced
4.	Extra nourishment	5,000/-	5,000/-	Confirmed
5.	Transportation	7,000/-	14,000/-	Enhanced
6.	Attendant charges	-	8,000/-	granted
	Total	Rs.2,00,000/-	Rs.2,40,000/-	Enhanced by Rs.40,000/-

13.In the result,

13(i).This Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,00,000/- is hereby enhanced to Rs.2,40,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit.

13(ii).The 2nd respondent-Insurance Company is directed to deposit the award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.647 of 2018 on the file of the Motor Accidents Claims Tribunal, Chief Judicial



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Magistrate's Court, Dharmapuri.

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13(iii).On such deposit, the appellant / claimant is permitted to withdraw the award amount now determined by this Court along with interest and costs, less the amount if any already withdrawn by filing necessary application to withdraw the amount before the Tribunal. No costs.

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

1.The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal,
Chief Judicial Magistrate's Court,
Dharmapuri.

2.The Section Officer,
VR Section,
High Court, Madras.



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R.KALAIMATHI, J.

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