



C.M.A.No.1794 of 2020

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2023

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

C.M.A.No.1794 of 2020

Keny Fernandes

... Appellant/Petitioner

Vs.

1.Natarajan

2.The Divisional Manager,
The New India Assurance Company Limited,
No.106, First Floor,
Big Street,
Thiruvannamalai.

... Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and Decree dated 31.01.2020 made in M.A.C.T.O.P.No.10 of 2018 on the file of the Motor Accident Claims Tribunal and Special Sub Judge, Tiruvannamalai.

For Appellant : Ms.A.Subadra

For Respondents : No appearance [R1]
Mr.R.Neethiperumal [R2]



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JUDGMENT

The claimant before the Motor Accident Claims Tribunal and Special Sub Judge, Tiruvannamalai in M.A.C.T.O.P.No.10 of 2018, is the appellant before this Court challenging the award passed by the Tribunal, dated 31.01.2010.

2. Since the appellant had only challenged the quantum of compensation, I do not propose to extract the entire facts of the case. Suffice it to state that the appellant had filed the above claim petition seeking compensation of a sum of Rs.10,00,000/- for the injuries sustained by him in a road accident on 10.12.2017. The appellant/injured person was a 3rd year Engineering student studying at Arunai Engineering College, Thiruvannamalai and aged about 21 years at the time of accident.

3. The learned counsel appearing for the appellant submitted that, when the Tribunal has accepted that the first respondent's car was driven in a rash and negligent manner and was the cause for the accident, the compensation awarded by the Tribunal is grossly inadequate. She also



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submitted that the amount of Rs.3,000/- per percentage of disability awarded by the Tribunal is wholly inadequate. Further, she submitted that the amount awarded under the head pain and suffering is also minimal, which requires enhancement.

4. Per contra, the learned counsel appearing for the second respondent submitted that, the amount of Rs.3,000/- awarded per percentage of disability is reasonable and so also the compensation awarded under the other heads, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.

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

6. The factum and manner of the accident is not in dispute. Therefore, this Court is not entering into the said aspect. The only grievance of the claimant is with regard to the quantum of compensation awarded by the Tribunal. In this regard, this Court perused Ex.C.1, which is the disability certificate issued by the Medical Board,



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Government Medical College Hospital, Tiruvannamalai and the same reveals that the appellant had suffered permanent disability of 10%. By considering the said certificate, the Tribunal, had erroneously adopted a sum of Rs.3,000/- per percentage of disability and awarded a sum of Rs.30,000/-. However, as per the existing law at the relevant point of time, the Tribunal ought to have fixed a sum of Rs.5,000/- per percentage of disability. Hence, this Court is inclined to fix a sum of Rs.5,000/- per percentage of disability. Therefore, the amount under the head of permanent disability stands enhanced to a sum of Rs.50,000/- (10 x Rs.5,000/- = Rs.50,000/-).

7. Further, the Tribunal had awarded a sum of Rs.10,000/- towards pain and sufferings; Rs.8,000/- towards Loss of amenities; Rs.8,000/- towards Extra nourishment and damages; Rs.4,000/- towards Attender charges; Rs.5,000/- towards Transport expenses and Rs.3,13,080/- towards Medical expenses. This Court finds that the compensation awarded under the heads loss of amenities, extra nourishment and damages, attender charges, transport expenses and medical expenses are just and reasonable and does not require any interference. However,



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insofar as the compensation awarded towards pain and sufferings is concerned, this Court feels that a sum of Rs.25,000/- would be just and reasonable compensation.

8. In view of the above, the compensation awarded by the Tribunal is modified as under :-

<i>S.No.</i>	<i>Description</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
1	Permanent Disability	30,000/-	50,000/- (enhanced)
2	Pain and Sufferings	10,000/-	25,000/- (enhanced)
3	Loss of amenities	8,000/-	8,000/-
4	Extra nourishment and damages	8,000/-	8,000/-
5	Attender charges	4,000/-	4,000/-
6	Transport expenses	5,000/-	5,000/-
7	Medical expenses	3,13,080/-	3,13,080/-
	Total	3,78,080/-	4,13,080/-

9. Accordingly, the appeal is partly allowed and the impugned award of the Tribunal is modified enhancing the compensation amount from **Rs.3,78,080/-** to **Rs.4,13,080/-**. The second respondent/Insurance



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Company is directed to deposit the said amount to the credit of M.A.C.T.O.P.No.10 of 2018 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant/claimant is permitted to withdraw the award amount, less, the amount, if any already withdrawn. The appellant/claimant is directed to pay the necessary Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time the certified copy showing proof of payment of Court fee is produced by the claimants. In other respects, the Award of the Tribunal is hereby confirmed. There shall be no order as to costs in the present appeal.

12.12.2023

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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- 1.The Motor Accident Claims Tribunal and Special Sub Judge,
Tiruvannamalai.
- 2.The Section Officer,
V.R.Section,
High Court, Madras.



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M.DHANDAPANI, J.,

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