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CMA No.2729 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2023

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THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMA No.2729 of 2022

Vakati Chandramouli Reddy

.. Appellant

Vs.

1. K.Sivakumar.

2. The Oriental Insurance Company Limited,
Motor Third Party Hub,
No.115, Broadway,
II Floor,
Chennai – 600 001.

.. Respondents

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 to enhance the award dated 11.11.2019 passed in MCOP No.4714 of 2013 on the file of the Motor Accident Claims Tribunal [V Court of Small Causes], Chennai.

For Appellant : Mr.C.Richard Suresh Kumar

For Respondents : Mr.D.Bhaskaran (for R2)



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JUDGMENT

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In a road transport accident on 15.10.2012, a Tanker lorry bearing Regn. No.AP-03-X-6566, driven by its driver in a rash and negligent manner, got capsized and the lorry got burst, thereby caused fire accident, wherein 22 persons were injured and 2 persons were dead. Injured claimants/legal representatives of the deceased, filed individual claim petitions, numbering 24, before the Motor Accident Claims Tribunal [V Court of Small Causes], Chennai. All the 24 cases were tried jointly and by a common judgment dated 11.11.2019, the claims tribunal held that the driver of the Tanker Lorry was negligent in causing the accident and accordingly, fastened liability on the insurer of the Tanker Lorry viz., the Oriental Insurance Company, the 2nd respondent herein and awarded compensation in each claim petitions.

2. Claim petitioner in MCOP No.4714 of 2013, is the appellant herein seeking enhancement of compensation for 50% burn injuries over both hands, legs and chest, in the above said accident.



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3. For the sake of convenience, the parties are hereinafter referred to as per their ranking before the claims tribunal.

4. The factum of the accident, the manner of the accident and the negligence on the part of the driver of the offending vehicle, are not disputed. Hence, the findings of the claims tribunal, are confirmed.

5. The claim petitioner, who had suffered injury in the road transport accident on 15.10.2012, has filed the above MCOP and the claims tribunal has awarded a sum of Rs.6,49,300/- with interest at the rate of 7.5% per annum from the date of numbering of claim petition till the date of realization with costs.

6. On the point of quantum of compensation, heard the learned counsel for the appellant/claim petitioner and the learned counsel appearing on behalf of the 2nd respondent/Insurance Company and perused the materials available on record.



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7. On perusal of Ex.P85, copy of the wound certificate, issued by

Andhra Pradesh Vaidya Vidhana Parishad, the injured claim petitioner has been admitted in the hospital on 20.10.2012, underwent surgery on 22.10.2012 and got discharged on 04.11.2012, for the 50% burn injuries in both hands, legs and chest. Ex.P86, is the discharge summary issued by the hospital. Ex.P87 series are the medical prescriptions and Ex.P89 is the photograph of the petitioner. The disability of the injured claim petitioner has been assessed at 35% and the claims tribunal has awarded, Rs.1,05,000/- towards disability i.e. Rs.3,000/- per percentage of disability, I am of the view that the said disability ought to have been considered as functional disability and claims tribunal ought to have adopted multiplier method. Therefore, whole body disability is assessed as 15%. Further, Rs.6,000/- fixed as notional income, is also less. The claim petitioner was stated to be doing agricultural work and earning Rs.10,000/- per month. Therefore, I am of the view that fixing a sum of Rs.9,000/- per month as notional income, would be fair and reasonable. Accordingly, taking Rs.9,000/- as notional income; by applying '14' multiplier and also adding 40% of income towards future prospects, compensation under the head 'disability' for 15% functional disability, is arrived at as follows:



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Monthly Income : Rs. 9,000/-
Add 40% Future Prospects : Rs. 3,600/-
Total : Rs.12,600/-
 $\text{Rs.12,600} \times 12 \times 14 \times 15\% = \text{Rs.3,17,520/-}$

8. The claims tribunal has awarded only Rs.30,000/- for pain and suffering and also has awarded loss of income at the rate of Rs.6,000/-per month for the period of three months only. As stated supra, the claim petitioner has suffered 50% burn injuries in both the legs, hands and chest and therefore, I am inclined to enhance the award under the head 'pain and suffering' from Rs.30,000/- to Rs.50,000/-. Further, by fixing the monthly income of the deceased at Rs.9,000/-, loss of income for a period of five months is awarded i.e. $\text{Rs.9000/-} \times 5 = \text{Rs.45,000/-}$, as against Rs.18,000/- awarded by the tribunal. Compensation amount under other heads and the interest awarded by the tribunal, appears to be just and reasonable and hence, they are kept intact. The reassessed compensation is as follows:

	Amount awarded by the tribunal Rs.	Award now modified Rs.	Enhanced Amount
Pain & sufferings	30,000	45,000	15,000
Transport and Extra Nourishment	20,000	20,000	-
Disability	1,05,000 (Rs.3000/-x35 i.e. Rs.3000/- per %)	3,17,520 (9000+(9000*40%)x1 2x14x15%	2,12,520



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	Amount awarded by the tribunal Rs.	Award now modified Rs.	Enhanced Amount
	35%)		
Loss of income	18,000/- (for 3 months @ Rs.6,000/-pm)	45000 (for 5 months @ Rs.9,000/-pm)	27000
Loss of amenities	50,000	50,000	-
Attender Charges	4,800	4,800	-
Medical Expenses	4,21,443	4,21,443	-
Total	6,49,243	9,03,763	
Rounded off	6,49,300	9,03,770	
Enhanced now			Rs.2,54,520/-

9. In the result, it is ordered as follows:

- (i) The judgment and decree dated 11.11.2019, made in MCOP No.4714 of 2013 on the file of the Motor Accident Claims Tribunal [V Court of Small Causes], Chennai, stands modified to the limited extent that the compensation of Rs.6,49,300/- awarded by the claims tribunal is enhanced to Rs.9,03,770/- and the interest awarded by the claims tribunal remains unaltered.
- (ii) Additional Court fee, if any, to be paid by the claim petitioner within a period of four weeks and decree to be drafted after the payment of Court fee.
- (iii) The 2nd respondent-Insurance company is directed to deposit the enhanced compensation amount of Rs.9,03,770/- with proportionate interest and costs to the credit of MCOP No.4714



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of 2013 on the file of the Motor Accident Claims Tribunal [V Court of Small Causes], Chennai, within a period of eight weeks from the date of receipt of a copy of this order, less the amount deposited, if any.

(iv) On such deposit, the appellant/claim petitioner, is permitted to withdraw the same, less the amount withdrawn, if any, on making necessary applications.

10. With the above directions, the Civil Miscellaneous Appeal stands partly allowed. No Costs.

02.03.2023

Index : Yes/No
Neutral Citation : Yes/No.
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To
The V Judge,
Court of Small Causes,
Motor Accident Claims Tribunal, Chennai.



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RMT.TEEKAA RAMAN,J.,

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