



C.M.A.No2364 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.06.2023

DELIVERED ON : 06.07.2023

CORAM

THE HONOURABLE MRS. JUSTICE R. KALAIMATHI

C.M.A.No.2364 of 2021

Prasanth

.. Appellant

Vs.

1. Sathishkumar
2. Mohanambal
3. The National Insurance Co.Ltd.,
B.O:1, Mahalakshmi Nivasam,
Opp:Kiruba Hospital,
Rajaji Road,
Kumarasamypatty,
Salem-636 007.

.. Respondents

Prayer : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to allow the Civil Miscellaneous Appeal and enhance the award in the order dated 20.01.2021 made in M.A.C.T.O.P.No.1413 of 2019, on the file of the Motor Vehicle Accident Claims Tribunal/Special Subordinate Judge No.II, Salem.

For Appellant : Mr.T.S.Arthanareeswaran

For R1 : Dispensed with
vide order dated 28.06.2023



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For R2 : No appearance

For R3 : M/s R. Sreevidya

JUDGMENT

Not being satisfied by the compensation awarded by the Motor Vehicle Accident Claims Tribunal/Special Subordinate Judge No.II, Salem, in M.A.C.T.OP.No.1413 of 2019 dated 20.01.2021, the sole appellant herein has preferred this Civil Miscellaneous Appeal for enhancement of compensation.

2. The claim petition was filed under Section 166 of the Motor Vehicles Act, 1988 and Rule 3 of Motor Accident Claims Tribunal Rules, claiming compensation of Rs.15,00,000/- for the injuries sustained by the claimant in an accident that occurred on 20.01.2019.

3. The learned Tribunal after hearing both sides arguments and upon consideration of oral and documentary evidence has passed an award for an amount of Rs.2,66,294/-, along with interest at the rate of 7.5% from the date of filing of the petition till the date of deposit. 20% was deducted for contributory negligence from the total compensation of Rs.3,32,867/-.



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4. Mr.T.S.Arthanareeswaran, the learned counsel for the appellant would vehemently contend that the Tribunal having deducted 20% for contributory negligence on the part of the appellant herein for driving the vehicle without driving license is highly excessive and prayed to reduce the above said percentage. He would further contend that the amount awarded under various heads are less and sought for enhancement.

5. Per contra, M/s R.Sreevidya, learned counsel for the third respondent – Insurance Company would strenuously argue that as pleaded in the counter by the insurance company, the same was duly proved by examining the Administrative Officer, one Annamalai as R.W.1. Through him, Motor Vehicle Inspection Report pertaining to the appellant's vehicle was marked as Ex.R3, wherein it has been mentioned that the appellant did drive the vehicle without driving license and without insurance policy on the date of accident. It is the evidence of R.W.1 that for the said omissions, the appellant herein had paid a fine of Rs.2,200/-. Therefore, it is made vividly clear that the appellant/claimant herein did not



possess driving license and insurance policy on the date of accident.

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6. Heard the rival submissions of learned counsel both sides and perused the materials available on record.

7. As regards the accident, it is the evidence of P.W.1 that on 20.01.2019, at about 10.30 a.m., while the appellant was riding the motorcycle bearing Registration No.TN 52 Z 1377 along Uththamasozhapuram to Kondalampatti main road, at the point of Valli Medicals, a Maruthi Omni Car bearing Registration No.TN30 AC 0942 came at great speed and in rash and negligent manner, hit him and he sustained injuries, is not in dispute. For the injuries sustained, he filed a claim petition as mentioned supra.

8. Resisting the said claim, on behalf of the insurance company, it was contended by filing counter stating that the appellant was put to strict proof of manner in which the accident had occurred, his age and avocation. It was further stated that the appellant herein did not possess driving license and he has no insurance certificate for his vehicle on the



relevant date.

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9. By going through the evidence of R.W.1 coupled with Ex.R3 Motor Vehicle Report pertaining the appellant, it appears that he did ride the vehicle without license and insurance certificate on the relevant date. Therefore, based on the aforesaid discussions, this Court deems fit to fix the contributory negligence at 14%.

10. It is seen from the medical records that the claimant who was 19 years old, studying B.C.A IInd year, suffered fracture in both bone left leg with avulsion injury in left ankle for which he was treated as in-patient for about six days at Sree Vasantham Hospital, Salem. As regards the Transport expenses, considering the nature of injuries suffered by the appellant, an amount of Rs.15,000/- is granted, in addition to the amount already granted by the Tribunal.

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



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12. Based on the aforesaid discussions, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Permanent Disability	1,25,000/-	1,25,000/-	Confirmed
2.	Pain and sufferings	30,000/-	30,000/-	Confirmed
3.	Loss of Amenities	30,000/-	30,000/-	Confirmed
4.	Medical Expenses	33,367/-	33,367/-	Confirmed
5.	Loss of Income	12,000/-	12,000/-	Confirmed
6.	Transportation	10,000/-	25,000/-	Enhanced
7.	Extra Nourishment	20,000/-	20,000/-	Confirmed
8.	Attender Charges	10,000/-	10,000/-	Confirmed
9.	Damages to clothes	1,000/-	1,000/-	Confirmed
	Total	Rs. 3,32,867 /-	Rs. 3,47,867 /-	Enhanced by Rs. 15,000 /-

13. In the result,

13(i). This Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs. 3,32,867/- is hereby enhanced to Rs. 3,47,867/-, together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit.



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13(ii). The third respondent Insurance Company is directed to deposit 36% of the award amount now determined by this Court i.e. 3,47,267/- 14% = 2,99,166/- 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.A.C.T.O.P.No.1413 of 2019, dated 20.01.2021, on the file of the Motor Vehicle Accident Claims Tribunal / Special Subordinate Judge No.II, Salem.

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 cheque application before the Tribunal. No costs.

06.07.2023

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

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R.KALAIMATHI. J.

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To

1. The Motor Vehicle Accident Claims Tribunal/Special Subordinate Judge
No.II, Salem.
2. The Section Officer,
VR Section,
High Court, Madras.

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