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CMA.No.1614 of 2014

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED :21.03.2023**

**CORAM :**

**THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN**

**Civil Miscellaneous Appeal No.1614 of 2014**

A.Subramanian

... Petitioner/Appellant

-Vs-

1. M.Viswanathan

2. United India Insurance Company,  
Cuddalore.

3. N.M.Narendira

4. Oriental Insurance Company,  
Pondicherry.

... Respondents

Prayer : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 16.02.2004 made in M.C.O.P.No.773 of 2003 on the file of the Motor Accident Claims Tribunal, Fast Track Court II, Cuddalore.

For Appellant : Mr.R.Sunilkumar

For Respondents : R1-*Ex-parte* before the Tribunal

Mrs.R.Sreevidhya [R2]

R3 & R4 – Dismissed before the  
Tribunal



CMA.No.1614 of 2014

### **JUDGMENT**

This Civil Miscellaneous Appeal arises against the judgment of the Motor Accident Claims Tribunal, Fast Track Court II, Cuddalore, passed in M.C.O.P.No.773 of 2003 on 16.02.2004.

2. The claimant has filed this appeal seeking enhancement of compensation.

3. It is a case of the appellant/claimant that on 27.12.2000 at about 2.00 p.m., when the appellant and others were went for a family function in a Swaraj Mazda Van bearing Registration No.B.Y 01-B-2228 belongs to the third respondent, a bus bearing Registration No.TN-09-D-9199 came in the opposite direction in a rash and negligent manner and hit against the van, as a result, one of the passengers and the driver of the van died on the spot and the appellant/claimant sustained injuries. Hence, the petitioner has filed a petition before the Tribunal claiming a sum of Rs.15,00,000/- as compensation from the respondents together with interests and costs for the injuries sustained by him.

4. Before the Tribunal, on behalf of the claimant, the claimant and



CMA.No.1614 of 2014

three others were examined and 41 exhibits were marked. None were examined on the side of respondents nor were any exhibits marked.

5. On appreciation of the materials before it, the Tribunal awarded compensation as follows:

|                           |   |                |
|---------------------------|---|----------------|
| (a) Loss of Income        | : | Rs. 1,20,000/- |
| (b) Medical Bills         | : | Rs. 1,69,845/- |
| (c) Transport Charges     | : | Rs. 10,000/-   |
| (d) Extra Nourishment     | : | Rs. 5,000/-    |
| (e) Non Pecuniary Damage: |   | Rs. 30,000/-   |
| (f) Disability            | : | Rs. 35,000/-   |
|                           |   | -----          |
|                           |   | Rs. 3,69,845/- |
|                           |   | -----          |

The said sum was directed to be paid by the first and second respondents along with interest at 9% per annum from the date of petition till the date of deposit of the award amount.

6. Learned counsel for the appellant/claimant submits that the appellant suffered extensive injuries all over the body including fracture of both legs resulting in a disability of 65% and he is not able to do his day-to-day work owing to the injury suffered in the accident and the injury is also a permanent one. Though the doctor had assessed the disability at 65%, the Tribunal erred in fixing the disability at 35% and awarding a sum of Rs.35,000/- and the Tribunal was also erred in



CMA.No.1614 of 2014

reducing the medical expenses from Rs.71,743/- to Rs.50,000/-. Learned counsel further submits that the award under the other heads is also on the lower side.

7. The learned counsel for the respondents 2 and 4, on the other hand, submits that the order of the Tribunal is fair and justified and it does not require interference by this Court.

8. Heard the learned counsel appearing for the parties and perused the records.

9. Considering the nature of injuries sustained by the appellant, this Court is of the view that the disability of the appellant/claimant can be fixed at 50% and the monthly income of the appellant/claimant can be fixed at Rs.5,000/-. Accordingly, the sum of Rs.1,20,000/- awarded towards loss of income is enhanced to Rs.1,50,000/- [Rs.5,000\*12\*5\*50%]. The amount awarded under the other heads is hereby confirmed.

10. Accordingly, the modified award is calculated as follows:



CMA.No.1614 of 2014

| <i>S.No.</i> | <i>Particulars</i>    | <i>Award of Tribunal</i> | <i>Enhanced amount</i> |           |
|--------------|-----------------------|--------------------------|------------------------|-----------|
| 1.           | Loss of Income        | Rs. 1,20,000/-           | Rs. 1,50,000/-         | Enhanced  |
| 2.           | Medical Bills         | Rs. 1,69,845/-           | Rs. 1,69,845/-         | Confirmed |
| 3.           | Transport Charges     | Rs. 10,000/-             | Rs. 10,000/-           | Confirmed |
| 4.           | Extra Nourishment     | Rs. 5,000/-              | Rs. 5,000/-            | Confirmed |
| 5.           | Non Pecuniary Damages | Rs. 30,000/-             | Rs. 30,000/-           | Confirmed |
| 6.           | Disability            | Rs. Rs.35,000            | Rs. 35,000/-           | Confirmed |
|              |                       | <b>Rs. 3,69,845/-</b>    | <b>Rs. 3,99,845/-</b>  |           |

11. Accordingly, the amount awarded by the Tribunal is enhanced from Rs.3,69,845/- to Rs.3,99,845/- together with interest at 7.5% per annum from the date of petition till the date of deposit. Though the Tribunal has awarded 9% interest per annum from the date of petition till the date of deposit, this Court is granting 7.5% interest per annum from the date of petition till the date of deposit.

12. The respondents 2 and 4/ Insurance Company are directed to deposit the entire amount i.e., Rs.3,99,845/- together with interest at 7.5% per annum, less the amount already deposited, if any, from the date of petition till the date of deposit to the credit of MCOP.No.773 of 2003 on the file of the Motor Vehicle Accident Claims Tribunal, Fast Track Court II, Cuddalore within a period of six(6) weeks from the date of receipt of a copy of this order.



CMA.No.1614 of 2014

13. The appellant/claimant shall be entitled to withdraw the entire amount on such deposit by the second respondent on due application.

Accordingly, this Civil Miscellaneous Appeal is partly allowed. No costs.

**21.03.2023**

mp

To  
The Motor Vehicle Accident Claims Tribunal,  
Fast Track Court II, Cuddalore.

**A.A.NAKKIRAN, J.**

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CMA.No.1614 of 2014

**CMA.No.1614 of 2014**

**21.03.2023**