



CMA.No.2176 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CMA.No.2176 of 2014

K.Annadurai

Appellant

Vs

1. N.Balasubramaniam
2. R.Ramesh Gajariya

3. Royal Sundaram Alliance Insurance Company Limited
Coimbatore

Respondents

Prayer:- This Civil Miscellaneous Appeal has been filed, against the judgement and decree, dated, 04.08.2009, made in MCOP.No.600 of 2006, by the Chief Judicial Magistrate (MACT) Krishnagiri.

For Appellant : Mr.V.Kumaravelan

For Respondents : Mr.K.Vinod -R3

JUDGEMENT

1. This Civil Miscellaneous Appeal has been filed, by the claimant, against the judgement and decree, dated, 04.08.2009, made in MCOP.No.600 of 2006, by the Chief Judicial Magistrate (MACT) Krishnagiri.
2. The claimant has filed the claim petition before the Tribunal, seeking a compensation of Rs.10,00,000/- on various heads, for the injuries sustained



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by him, in a motor road accident, which took place on 05.12.2003. The 2nd

Respondent herein/owner of the offending vehicle remained exparte. The claim petition was resisted, on various grounds, by the 1st Respondent and 3rd Respondent/ Insurance Company, by filing separate counters. On the side of the claimant, PW.1 to PW.3 were examined and Ex.P1 to Ex.P19 were marked. On the side of the Respondents, RW.1 was examined and Ex.R1 to R3 were marked.

3. Finding that the accident had occurred only due to the rash and negligent driving of the driver of the offending vehicle, the Tribunal has awarded a total compensation of Rs.3,95,574/-, with interest at 7.5% p.a. from the date of the claim petition till the date of realization, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Permanent Disability (30% x Rs.1500)	45000.00
2	Injuries	50000.00
3	Medical Expenses	251774.00
4	Transportation Expenses	40800.00
5	Extra Nourishment	2000.00
6	Loss of Income for 60 days	6000.00
Total Compensation		395574.00

Aggrieved by the quantum of compensation, this appeal has been filed by the claimant.

4. This Court heard the learned counsel on either side, considered their submissions and also perused the entire materials placed on record.



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5. Since there is no quarrel over the negligence aspect and the dispute is only with regard to the quantum of compensation, the finding of the Tribunal with respect to the negligence aspect is confirmed and also, it is not necessary to narrate the entire facts in detail in respect of the accident.
6. According to the learned counsel for the Appellant, without considering the nature of injuries, income source, age and the period of treatment and disabilities, the Tribunal fixed the permanent disability at 30% when as per the medical records and evidence, it is 45% and since it is a case of injury, it ought to have awarded compensation towards pain and suffering, future medical expenses and attendant charges and the compensation awarded under the other heads are also on the lower side and hence, the impugned compensation needs to be enhanced.
7. According to the learned counsel for the 3rd Respondent/ Insurance Company, the compensation awarded by the Tribunal is just and proper.
8. According to the claimant, he sustained comminuted fracture both bones i.e. tibia and fibula of left leg and sustained multiple injuries all over the body and due to such injuries, he is unable to sit, stand, walk ride any two wheeler. Ex.P17 disability certificate given by PW.3 Doctor and other medical records establish the said disabilities. Though the medical evidence shows that the claimant sustained 45% disability, the Tribunal fixed the same at 30%, which is not just and proper. Considering the nature of injuries, it would be



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appropriate to fix the permanent disability at 45%. Accordingly, a sum of Rs.67,500/- (Rs.1500/- per percentage = Rs.1500x45) for continuing permanent disability is hereby awarded.

9. Considering the nature of injuries and the fractures suffered by the claimant and the period of treatment, the compensation of Rs.2,000/- towards extra nourishment and Rs.6,000/- towards loss of income for 60 days awarded by the Tribunal are modified to Rs.15,000/- and Rs.12,000/- (Rs.200x60 days) respectively. Further, a sum of Rs.20,000/- towards pain sufferings, Rs.15000/- towards future medical expenses and Rs.15000/- towards attendant charges are awarded. The compensation awarded under other heads are confirmed.

10. In the result, this Civil Miscellaneous Appeal is partly allowed. In all, the claimant is entitled to a total compensation of Rs.4,37,074/-, (Rupees four lakhs thirty seven thousand seventy four only) with interest 7.5% p.a. from the date of the claim petition till the date of realisation, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Permanent Disability (40% x Rs.1500)	67500.00
2	Medical Expenses	251774.00
3	Transportation Expenses	40800.00
4	Extra Nourishment	15000.00
5	Loss of Income for 60 days	12000.00
6	Pain and Suffering	20000.00
7	Future Medical Expenses	15000.00
8	Attendants Charges	15000.00
Total Compensation		437074.00

The 3rd Respondent / Insurance Company is directed to deposit the



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entire award amount with interest at 7.5% p.a. from the date of the claim petition till the date of deposit, after deducting the amount, if any already, deposited, and also deducting interest for the period of delay in filing the appeal, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the claimant is entitled to withdraw the entire compensation amount with interest, by filing proper application and by paying proper court fee for the enhanced compensation. No costs.

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Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Srcm

To

1. The Chief Judicial Magistrate (MACT) Krishnagiri
2. The Record Keeper, VR Section, High Court, Madras



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A.A.NAKKIRAN, J.

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