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CMA.No.2995 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

Civil Miscellaneous Appeal No.2995 of 2014

E.Krishnan

... Petitioner/Appellant

-Vs-

1. Mr.Ravindran

2. The Branch Manager,
The Oriental Insurance Company Limited,
Divya Towers, 2nd Floor,
Western Part, Fort Main Road,
Salem – 636 001.

3. Messrs. Muthukumar & Company Indian Oil Dealer,
73/120, Kangayam Road,
Muthur Post,
Erode District.

4. The Branch Manager,
United India Insurance Company Limited,
Branch Office,
No.5, Big Bazaar Street,
Dharapuram.

... Respondents/Respondent

Prayer : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the judgment and decree dated 28.03.2013 made in M.C.O.P.No.1273 of 2010 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Krishnagiri.



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For Appellant : Mr.Mukund R. Pandiyan
For Respondent : Mrs.R.Sreevidhya [R2]
: Ms.I.Malar [R4]

JUDGMENT

This Civil Miscellaneous Appeal arises against the judgment of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Krishnagiri, passed in M.C.O.P.No.1273 of 2010 on 28.03.2013.

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

3. It is the case of the appellant/claimant that on 30.10.2009 at about 23.00 hours, the petitioner was travelling as a passenger in a bus bearing Registration No.TN 29/AC 8988 along with others towards Salem side. When the bus was proceeding towards Samathuvapuram within the Deevattipatti PS limits, the driver of the said bus drove the same in a rash, reckless and negligent manner and without sounding horn and without adhering to the Rules of the road dashed on the backside of a tanker lorry which was going in front of the bus in a high speed and suddenly slowed down without any signal or indication. Due to the



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impact, the petitioner and other passengers in the bus sustained injuries.

Hence, the petitioner has filed a petition before the Tribunal claiming a sum of Rs.10,00,000/- from the second and fourth respondents being the insurer of the bus and the tanker lorry respectively together with interests and costs for the injuries sustained by him.

4. Before the Tribunal, on behalf of the claimant, the claimant and a doctor were examined and nine 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)Permanent Disability	:	Rs. 4,32,000/-
(b)Pain and Suffering	:	Rs. 20,000/-
(c)Extra Nourishment	:	Rs. 5,000/-
(d)Attender charges	:	Rs. 5,000/-
(e) Transportation	:	Rs. 5,000/-
(f)Loss of income during the treatment period	:	Rs. 10,000/-
(g)Damages to Cloth and articles:		Rs. 1,000/-
(h) Medical Bills	:	Rs. 4,803/-

		Rs. 4,82,803/-

The said sum was rounded off to Rs.4,82,800/- and 75% of the award amount was directed to be paid by the second



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respondent/Insurance Company and the balance 25% of the award amount was directed to be paid by the fourth respondent/Insurance Company along with interest at 6% 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 Tribunal erred in granting only a sum of Rs.4,32,000/- towards permanent disability, Rs.10,000/- towards Loss of Income, Rs.20,000/- towards pain and suffering and Rs.5,000/- towards Attender charges, which are on the lower side. Hence, he prays this Court to enhance the compensation.

7.The learned counsel for the respondents would submit that the Tribunal has awarded the compensation after considering the oral and documentary evidence in just and proper manner. Hence, this Court need not to interfere with the same.

8. Heard, the learned counsel appearing for the appellant/claimant and the learned counsel appearing for the second and fourth respondents and have perused the records.



9. The Tribunal has awarded the compensation towards the

Extra Nourishment, Transportation, Damages to cloth and articles and Medical Bills in a just and proper manner after considering the oral and documentary evidence. Hence, this Court is not inclined to interfere with the same.

10. On a perusal of records, it is seen that while the petitioner was working as a Mazon, the Tribunal has fixed the monthly income of the petitioner as Rs.4,000/- which is very meagre. Considering the nature of petitioner's work, this Court is inclined to enhance his monthly income from Rs.4,000/- to Rs.6,500/- adopting the multiplier 15. Hence, the compensation towards the Permanent disability @60% would arrive at Rs.7,02,000/- ($6,500 \times 12 \times 15 \times 60 / 100$). Further, considering the nature of injuries sustained by the petitioner, this Court feels that the compensation awarded towards Pain and suffering is very meagre and hence it is increased from Rs.20,000/- to Rs.30,000/-. Considering the period of treatment underwent by the petitioner, the attender charges is increased from Rs.5,000/- to Rs.15,000/-. Considering the nature of injuries and treatment for that, he would not have attended his work atleast four months, therefore, fixing his monthly income as Rs.6,500/- for four



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month the compensation towards loss of income is increased from Rs.10,000/- to Rs.26,000/-.

11. In the light of the said discussions, the modified award is as follows:

<i>S.No.</i>	<i>Particulars</i>	<i>Award of Tribunal</i>	<i>Enhanced amount</i>	
1.	Compensation of Disability	Rs. 4,32,000/-	Rs. 7,02,000/-	Enhanced
2.	Pain and Suffering	Rs. 20,000/-	Rs. 30,000/-	Enhanced
3.	Extra Nourishment	Rs. 5,000/-	Rs. 5,000/-	Confirmed
4.	Attender charges	Rs. 5,000/-	Rs. 15,000/-	Enhanced
5.	Transportation	Rs. 5,000/-	Rs. 5,000/-	Confirmed
6.	Loss of Income during the treatment period	Rs. 10,000/-	Rs. 26,000/-	Enhanced
7.	Damages to Cloth and article	Rs. 1,000/-	Rs. 1,000/-	Confirmed
8.	Medical Bills	Rs. 4,803/-	Rs. 4,803/-	Confirmed
		Rs. 4,82,803/-	Rs. 7,88,803/-	

12. Accordingly, the amount awarded by the Tribunal is enhanced from Rs.4,82,803/- to Rs.7,88,803/- together with interest at 7.5% per annum from the date of petition till the date of deposit as compensation.

13. The second respondent/Insurance Company is directed to deposit 75% of the enhanced award amount and the fourth



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respondent/Insurance Company Corporation is directed to deposit 25% of the enhanced award amount, less the amount already paid, if any together with interest at 7.5% per annum from the date of petition till date of deposit and costs to the credit of MCOP.No.1273 of 2010 on the file of the Motor Vehicle Accident Claims Tribunal, Chief Judicial Magistrate, Krishnagiri within a period of four(4) weeks from the date of receipt of a copy of this order.

14. The appellant/claimant is entitled to withdraw the entire amount on such deposit by the respondents 2 and 4 by making proper application.

15. Accordingly, this Civil Miscellaneous Appeal is partly allowed.

No costs.

23.03.2023

mp/lbm



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A.A.NAKKIRAN, J.

mp

To

The Motor Vehicle Accident Claims Tribunal/
Chief Judicial Magistrate,
Krishnagiri.

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