



C.M.A.No.1745 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1745 of 2020

Anbalagan

... Appellant

Vs.

1.Sureshkumar

2.The New India Assurance Co., Ltd.,
No.8/16, Teachers Colony,
Mallasamudram Post,
Tiruchengode Taluk,
Namakkal District.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award in the judgment and decree dated 13.12.2019 made in M.A.C.T.O.P.No.269 of 2014 on the file of the Motor Vehicle Accident Claims Tribunal / Subordinate Judge Court, Tiruchengode.

For Appellant : Mr.T.S.Arthanareeswaran
for M/s.C.Paraneedharan

For Respondents : R1 – NDW
Mr.J.Chandran for R2



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J U D G M E N T

This appeal has been filed seeking to set aside the judgment and decree dated 13.12.2019 passed by the Motor Vehicle Accident Claims Tribunal / Subordinate Judge Court, Tiruchengode, in M.C.O.P.No.269 of 2014.

2.The learned counsel appearing for the appellant submitted that on 28.04.2014 at about 12.10p.m., the appellant claimant was riding the Hero Honda bearing Registration No.TN-34-C3499 from Tiruchengode – Erode Road in East to West direction, near Kootappalli Water Tank. At that time, a TATA Ace bearing Registration No.TN-34-L-4282 belonging to the first respondent and insured with the second respondent came in the opposite direction in a rash and negligent manner and dashed against the motorcycle, due to which, the appellant sustained injuries.

3.The learned counsel appearing for the appellant further submitted that thereafter, the injured claimant/ appellant filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.15 Lakhs. After adjudication, the Motor Accidents



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Claims Tribunal awarded a sum of Rs.6,33,600/- with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit and costs and directed that the second respondent to deposit the compensation. The learned counsel further submitted that the amount awarded by the Tribunal is meagre and hence, the appellant claimant has filed this appeal for enhancement in compensation.

4.The learned counsel appearing for the second respondent Insurance Company submitted that the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference.

5.Heard the learned counsel appearing for the appellant claimant as well as the learned counsel appearing for the second respondent Insurance Company and perused the materials available on record.

6.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only questioning the quantum of compensation.



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7.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.1,20,000/- for permanent disability, Rs.50,000/- for pain and sufferings, Rs.10,000/- for extra nourishment and loss of amenities, Rs.15,000/- for attender charges, Rs.3,81,600/- for medical expenses, Rs.25,000/- for transportation expenses, Rs.32,000/- for loss of income for four months and arrived at a total compensation of Rs.6,33,600/- with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit.

8.The Tribunal fixed the disability of the claimant as 40% and at the relevant point of time Rs.4,000/- per percentage of disability was awarded, however, the Tribunal has awarded only a sum of Rs.3,000/- per percentage of disability. Hence, if Rs.4,000/- per percentage of disability is awarded, the amount awarded for permanent disability works out to Rs.1,60,000/- [40% X Rs.4,000/- = Rs.1,60,000/-]. The amount awarded under the other heads, in the opinion of this Court are just and reasonable and the same are confirmed.



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9. Accordingly, the compensation amount is re-assessed as

follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Permanent Disability	Rs.1,20,000/-	Rs.1,60,000/-
2.	Pain and sufferings	Rs. 50,000/-	Rs. 50,000/-
3.	Extra nourishment and loss of amenities	Rs. 10,000/-	Rs. 10,000/-
4.	Attender charges	Rs. 15,000/-	Rs. 15,000/-
5.	Medical expenses	Rs.3,81,600/-	Rs.3,81,600/-
6.	Transport expenses	Rs. 25,000/-	Rs. 25,000/-
7.	Loss of income for four months	Rs. 32,000/-	Rs. 32,000/-
	Total	Rs.6,33,600/-	Rs.6,73,600/-

10. The appellant claimant is entitled to total compensation of Rs.6,73,600/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit.

11. The civil miscellaneous appeal is partly allowed. The judgment and decree of the Motor Vehicle Accident Claims Tribunal / Subordinate Judge Court, Tiruchengode in M.C.O.P.No.269 of 2014 dated 13.12.2019, is modified to the above extent. No costs.

12. The second respondent Insurance Company is directed to



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deposit the modified/ enhanced award amount before the Tribunal

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within a period of four weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such deposit being made, the appellant/ claimant is permitted to withdraw the modified/ enhanced award amount, along with accrued interest and costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellant/ claimant shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The appellant/ claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if required.

22.12.2023

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Motor Vehicle Accident Claims Tribunal /
Subordinate Judge Court, Tiruchengode.



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M.DHANDAPANI,J.
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