



CMA No.48 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.01.2023

PRONOUNCED ON : 31.01.2023

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THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMA No.48 of 2023

A.Saravanakumar

.. Appellant

Vs.

1. A.Vijayan

2. The National Insurance Company,
Divisional Office,
No.751, Anna Salai,
Chennai – 600 002.

.. Respondents

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 to enhance the award dated 03.10.2019 passed in MCOP No.237 of 2014 on the file of the Motor Accident Claims Tribunal [VI Court of Small Causes], Chennai.

For Appellant : Mr.M.Arjunan

For Respondents : Mr.M.Krishnamoorthi (for R2)

JUDGMENT

Injured claimant is the appellant herein and seeking enhancement of compensation awarded in MCOP No.237 of 2014, on the file of the Motor



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Accident Claims Tribunal [VI Court of Small Causes], Chennai, he has filed this Civil Miscellaneous Appeal.

2. For the sake of convenience, the parties are hereinafter referred to as per their ranking before the claims tribunal.

3. The factum of the accident, the manner of the accident and the negligence on the part of the driver of the offending vehicle, are not disputed.

4. The claim petitioner, who had suffered injury in the road transport accident on 28.08.2013, has filed the above MCOP and the claims tribunal has awarded a sum of Rs.1,61,000/- with interest at the rate of 7.5% per annum from the date of numbering of claim petition till the date of realization with costs.

5. Heard the learned counsel for the appellant/claim petitioner and the learned counsel appearing on behalf of the 2nd respondent/Insurance Company and perused the materials available on record.



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6. After hearing the learned counsel on either side, I find that based upon the evidence of PW2-Dr.Saravanakumar and on perusal of Ex.P11-Disability Certificate, the claims tribunal has rightly come to the conclusion that the disability suffered by the claim petitioner is 25% and accordingly, awarded Rs.75,000/- [Rs.3,000/-for 1% disability] as compensation towards disability and the claim petitioner who is stated to be a toy maker, claimed Rs.500/- per day as earning and the same was also applied and granted.

7. Further, though the compensation awarded by the claims tribunal under the other heads, appears to be just and reasonable, in view of the injuries sustained, the claim petitioner would find difficult to do his job for at least three months and therefore, loss of earning for a period of three months, ought to have been granted and the claims tribunal appears to have failed to award by oversight. Hence, loss of income for a period of three months at the rate of Rs.500/- per day, i.e. Rs.45,000/- is awarded.

8. In the result, it is ordered as follows:

- (i) The judgment and decree dated 03.10.2019, made in MCOP No.237 of 2014 on the file of the Motor Accident Claims



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Tribunal [VI Court of Small Causes], Chennai, stands modified to the limited extent that the compensation of Rs.1,61,000/- awarded by the claims tribunal is enhanced to Rs.2,06,000/- i.e. Rs.1,61,000 + Rs.45,000/- and the interest awarded by the claims tribunal remains unaltered.

- (ii) From the records, this Court finds that the Civil Miscellaneous Appeal has been filed with a delay of 129 days and the said delay was condoned on condition that the claim petitioner is not entitled for any interest for the delay period. Accordingly, the enhanced amount of Rs.45,000/- shall carry an interest of 7.5% per annum, excluding the delay period, till the date of realisation.
- (iii) Additional Court fee, if any, to be paid by the claim petitioner within a period of four weeks and decree to be drafted after the payment of Court fee.
- (iv) The 2nd respondent-Insurance company is directed to deposit the enhanced compensation amount of Rs.2,06,000/- with proportionate interest and costs to the credit of MCOP No.237 of 2014 on the file of the Motor Accident Claims Tribunal [VI Court of Small Causes], Chennai, within a period of four weeks from the date of receipt of a copy of this order.



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- (v) On such deposit, the appellant/claim petitioner, is permitted to withdraw the same, on making necessary applications.

9. With the above directions, the Civil Miscellaneous Appeal stands partly allowed. No Costs.

31.01.2023

Index : Yes/No
Neutral Citation : Yes/No.
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To
The VI Judge,
Court of Small Causes,
Motor Accident Claims Tribunal, Chennai.



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RMT.TEEKAA RAMAN,J.,

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Pre-delivery Judgment in
CMA No.48 of 2023

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