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CMA No.2809 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2023

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THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMA No.2809 of 2022

K.Gnanavel

.. Appellant

Vs.

1. S.Aarumugam

2. The Chief Manager,
Reliance General Insurance Co. Ltd.,
Reliance House, 6th Floor, No.6,
Haddows Road, Nungambakkam,
Chennai.

.. Respondents

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 to enhance the award passed by the Motor Accidents Claims Tribunal [Sub Court], Panruti, by its decree and judgment dated 23.04.2022 made in MCOP No.335 of 2019.

For Appellants : Mrs.Ramya V. Rao

For Respondents : Mr.P.Suresh Srinivasan (for R2)



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JUDGMENT

Injured Gnanavel, has filed MCOP No.335 of 2019, before the Motor Accidents Claims Tribunal [Sub Court], Panruti, for the injuries sustained in the road transport accident, happened on 19.04.2019.

2. The claims tribunal by its judgment and decree dated 23.04.2022, awarded a sum of Rs.2,65,000/- with interest at the rate of 7.5% per annum from the date of claim till the date of realization, excluding the delay period, if any and directed the 2nd respondent-Insurance Company to pay compensation to the injured/claimant and to recover the same from the owner of the vehicle/1st respondent herein.

3. Not satisfied with the quantum of compensation and seeking enhancement, the injured/claimant has preferred this Civil Miscellaneous Appeal.

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



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5. The factum of the accident, the manner of the accident, the rash and negligence on the part of the driver of the offending vehicle and pay and recovery ordered by the tribunal, are not disputed and hence, the findings rendered by the claims tribunal, are confirmed.

6. On the point of quantum of compensation, heard the learned counsel on either side.

7. Perusal of the award shows that, the claims tribunal on analysis of oral and documentary evidence has awarded Rs.1,65,000/- towards loss of functional disability, which is assessed as 33% i.e. Rs.5000/- per percentage of disability. Further, the claims tribunal has awarded, Rs.30,000/- towards pain and suffering and Rs.10,000/- each under the heads, medical expenses, extra nourishment, attender charges, loss of amenities and future medical expenses. By fixing the notional income of the deceased as Rs.5000/- per month, the claims tribunal has awarded Rs.20,000/-, towards loss of income during the period of treatment i.e.



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Rs.5,000/- x 4 months. In all, as stated supra, the claims tribunal has awarded a sum of Rs.2,65,000/- as compensation to the injured/claimant.

8. The date of accident is 19.04.2019. At the time of accident, the injured-Gnanavel was aged about 36 years and working as a Mason. Though, the injured claimed that he earned Rs.20,000/- per month, since, no proof was produced, the claims tribunal fixed the notional income of the injured as Rs.5,000/- for the accident in the year 2019 and awarded compensation under the head loss of income for the period of four months, which is very less and therefore, this Court is of the considered view that a sum of Rs.10,000/-per month may be fixed as notional income. Further, the claimant would have lost income atleast for the period of six months.

9. Though the claims tribunal has awarded just and reasonable compensation under the heads, loss of functional disability, medical expenses, extra nourishment and pain and suffering, since the injured has sustained grievous injuries and fractures in shaft of femur, left forearm and



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left hip and has also undergone surgery, this Court is of the view that the award under other heads requires to be enhanced and it is reassessed as follows:

	Amount awarded by the tribunal Rs.	Award now modified Rs.	Enhanced Amount
Loss of Functional disability at 33% (Rs.5000/- per %)	165000	165000	-
Medical Expenses	10000	10000	-
Additional Nourishment	10000	10000	-
Pain & Sufferings	30000	30000	-
Attender Charges	10000	25000	15000
Loss of Amenities	10000	25000	15000
Future Medical Expenses	10000	15000	5000
Loss of income	20000 (Rs.5000/- x 4 months)	60000 (Rs.10,000/- x 6 months)	40000
Total	265000	3,40,000	
Enhanced now			Rs.75,000/-

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

- The compensation of Rs.2,65,000/-, awarded by the claims tribunal is enhanced to Rs.3,40,000/- and the interest awarded by the claims tribunal, remains unaltered.
- The judgment and decree dated 23.04.2022 passed by the Motor Accidents Claims Tribunal (Sub Court), Panruti in MCOP No.335 of 2019 is modified, accordingly.



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- iii. The 2nd respondent-Insurance company is directed to deposit the entire award amount, now modified, with proportionate accrued interest and costs to the credit of MCOP No.335 of 2019 on the file Motor Accidents Claims Tribunal (Sub Court), Panruti, within a period of eight weeks from the date of receipt of a copy of this order and recover the same from the 1st respondent/owner of the vehicle, as held by the Claims Tribunal.
- iv. On such deposit, the claim petitioners are permitted to withdraw the same, on making necessary applications.
- v. Additional Court fee, if any, to be paid by the claim petitioners within a period of four weeks and decree to be drafted after the payment of Court fee.

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

07.02.2023

Index : Yes/No

Neutral Citation : Yes/No.

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RMT.TEEKAA RAMAN,J.,

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To

The Sub Court,
Motor Accident Claims Tribunal, Panruti.

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