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C.M.A.No.3767 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3767 of 2019

N.Kannan

... Appellant

Vs.

1.C.Hemanathan

2.United India Insurance Co. Ltd.,
Motor Third Party Hub,
Silingi Building,
4 Floor, No.134,
Greams Road,
Chennai – 06.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow the present appeal award enhanced compensation in judgment and decree dated 12.04.2019 in M.C.O.P. No.3500 of 2015 on the file of the Motor Accidents Claims Tribunal (II Court Small Causes Court), Chennai.

For Appellant : Mr.R.Nalliyappan

For Respondents : R1 – Not Ready Notice

Mr.M.J.Vijayaraghavan for R2

J U D G M E N T

This appeal has been filed against the judgment and decree



C.M.A.No.3767 of 2019

dated 12.04.2019 passed by the Motor Accidents Claims Tribunal (II Court Small Causes Court), Chennai, in M.C.O.P.No.3500 of 2015.

2.The learned counsel appearing for the appellant submitted that on 10.03.2015 at about 18.30 hours, the appellant was riding the motorcycle bearing Registration No.TN 07 Q 6954 from Porur to Tambaram direction at Kannadapalayam Over Bridge. At that time a Car bearing Registration No.TN 18 U 2309 came from behind in a rash and negligent manner and dashed against the appellant, 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.13 Lakhs. However, the Tribunal awarded only a sum of Rs.2,02,000/- as compensation to the claimant. The learned counsel further submitted that though the Doctor assessed the disability of the claimant as 40%, the Tribunal fixed the disability at 20% and awarded a sum of Rs.65,000/- towards disability, which is very meagre and the amount awarded by the Tribunal under the



C.M.A.No.3767 of 2019

other heads are also meagre and hence, the appellant/ claimant is entitled for enhancement of 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. The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.65,000/- for disability, Rs.10,000/- for extra nourishment, Rs.10,000/- for transportation, Rs.50,000/- for pain and sufferings, Rs.10,000/- for attender charges, Rs.57,000/- for medical expenses and arrived at a total compensation



C.M.A.No.3767 of 2019

of Rs.2,02,000/- with interest at the rate of 7.5% p.a. from the date on which the petition was taken on file till the date of realization and costs.

7.The Doctor has assessed the disability of the injured claimant as 40% and the Tribunal has fixed the disability as 20%. Since the assessment of disability varies from Doctor to Doctor, this Court fix the disability of the claimant as 35% and at the relevant point of time Rs.4,000/- per percentage of disability was awarded. Hence, the amount awarded for disability works out to Rs.1,40,000/- [35% X Rs.4,000/- = Rs.1,40,000/-]. The amount awarded under the other heads, in the opinion of this Court are just and reasonable and the same are confirmed.

8.Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	For disability	Rs.65,000/-	Rs.1,40,000/-
2.	For extra nourishment	Rs.10,000/-	Rs. 10,000/-
3.	For pain and sufferings	Rs.50,000/-	Rs. 50,000/-
4.	For medical expenses	Rs.57,000/-	Rs. 57,000/-
5.	For attender charges	Rs.10,000/-	Rs. 10,000/-



C.M.A.No.3767 of 2019

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
6.	For transportation	Rs.10,000/-	Rs. 10,000/-
	Total	Rs.2,02,000/-	Rs.2,77,000/-

9.The appellant claimant is entitled to total compensation of Rs.2,77,000/- along with interest at the rate of 7.5% p.a. from the date on which the petition was taken on file till the date of realization.

10.The civil miscellaneous appeal is allowed on the above terms. The judgment and decree passed in M.C.O.P.No.3500 of 2015 dated 12.04.2019 by the Motor Accidents Claims Tribunal (II Court Small Causes Court), Chennai, is modified to the above extent.

11.The second respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal 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



C.M.A.No.3767 of 2019

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,

M.DHANDAPANI,J.
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if required. The Motor Accidents Claims Tribunal (II Court Small Causes Court), Chennai, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellant/ claimant.

12.The civil miscellaneous appeal is allowed. No costs.

16.11.2023

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal
(II Court Small Causes Court), Chennai.

C.M.A.No.3767 of 2019



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C.M.A.No.3767 of 2019

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