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C.M.A.No. 4820 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2023

CORAM:

THE HON'BLE Mr. JUSTICE A.A.NAKKIRAN

C.M.A.No.4820 of 2019

K.Sivaraj

... Appellant

Vs.

1. Mariappan

2. Shriram General Insurance Company Limited,
10003-E-8Riico Industrial Area Sitapura,
Jaipur,
Rajasthan 302 022.

... Respondents

Prayer:Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, against the judgment and decree dated 13.02.2019 in M.C.O.P.No.2838 of 2014 passed by the learned Motor Accident Claims Tribunal/Special Sub Judge, Dharmapuri.

For Appellant : M/s.J.Chandra

For R1 : No appearance

For R2 :Mr.K.Poomalai

JUDGEMENT



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The Award and decree dated 13.02.2019 in M.C.O.P.No.2838 of 2014 passed by the learned Motor Accident Claims Tribunal/Special Sub Judge, Dharmapuri., is under challenge in the present Civil Miscellaneous Appeal.

2. The appellant/claimant, unsatisfied with the quantum of compensation awarded by the Tribunal under the impugned award, has preferred this appeal seeking for enhancement of compensation.

3. The Motor Accidents Claim Tribunal, under the impugned award, has awarded compensation of Rs.2,22,120/- together with interest and costs to the Appellant/claimant, which is detailed hereunder:

<i>Heads</i>	<i>Award Amount (Rs.)</i>
Permanent Disability	1,20,000/-
Pain and suffering	35,000/-
Transportation charges	5,000/-
Nourishment and damages to cloths	15,000/-
As per Medical Bills	23,120/-
Attender charges	10,000/-
Loss of income(2 x Rs.7000)	14,000/-
TOTAL	2,22,120/-

4. Before the Tribunal, the appellant/claimant has filed 11 documents



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which were marked as Ex.P1 to Ex.P11 and examined himself as PW1. On the side of the second respondent/Insurance Company, neither any document was filed, nor any witness was examined before the Tribunal. The first respondent was set- exparte before the Tribunal.

5. The learned counsel appearing on behalf of the appellant mainly contended that the compensation awarded by the Motor Accident Claims Tribunal is not in commensurate with the grievousness of the injuries sustained by the appellant/claimant. Though the Tribunal has assessed the disability at 40%, awarded very meager amount under the head of permanent disability. He further submitted that the Tribunal has failed to consider the age, income and occupation of the injured in proper perspective. The Tribunal, without appreciating the evidence on record properly, has awarded the compensation of Rs.2,22,120/- in *toto* and the said quantum of compensation is unreasonable. Hence, the claimant prayed to enhance the compensation.



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6. Per contra, the learned counsel appearing for the second respondent submitted that the compensation claimed by the appellant/claimant is highly excessive and baseless. He further submitted that the Tribunal, after analysing the evidence on record, has rightly awarded the compensation to the appellant/claimant and hence, the award passed by the Tribunal does not warrant any interference by this Court. Hence, he prays for dismissal of the appeal.

7. The Tribunal has relied on Ex.P1/FIR and Ex.P5-Medical bills, based on which, the Tribunal has fixed Rs.35,000/- towards pain and sufferings; Rs.14,000/- towards loss of income, Rs.10,000/- towards attender charges, Rs.23,120/- towards medical expenses, Rs.15,000/- for nourishment and damages, Rs.5,000/- for transport expenses and Rs.1,20,000/- for 40% permanent disability.

8. Based upon the oral and documentary evidences and the submissions



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made by the learned counsel for the Appellant, this Court re-fix the amount awarded towards permanent disability per percentage at Rs.4,000/- instead of Rs.3,000/-. Hence, the amount awarded towards permanent disability re-fixed at Rs.1,60,000/- (Rs.4000 x 40%). The loss of income arrived for two months is reassessed for six months, as the injured suffered by grievous injuries and hence a sum of Rs.42,000 (Rs.7000/- x 6) is awarded towards loss of income. Apart from the above, a sum of Rs.20,000/- is awarded to the Appellant, as the Appellant is going to suffer throughout his life time, due the injuries sustained by him in the accident. The amounts awarded under the heads of Transport and Attender charges seems to be very low and thus the same are enhanced to Rs.10,000/- and Rs.15,000/- respectively. Since the award granted under the head Medical expenses, pain and suffering, Nourishment are seem to be reasonable, no interference of this Court is required under the heads. Thus, the break-up details of the modified compensation are as follows:



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<i>Heads</i>	<i>Award Amount (Rs.)</i>
Permanent Disability	1,60,000/-
Pain and suffering	35,000/-
Transportation charges	10,000/-
Nourishment and damages to cloths	15,000/-
As per Medical Bills	23,120/-
Attender charges	15,000/-
Loss of income (6 x Rs.7000/-)	42,000/-
Loss of amenities	20,000/-
TOTAL	3,20,120/-

9. In the result,

a) This Civil Miscellaneous Appeal filed by the claimant / appellant is partly allowed, by enhancing the total amount of compensation from Rs.2,22,120/- to Rs.3,20,120/-/- along with interest at the rate of 7.5% p.a. from the date of filing of the petition till the date of deposit and costs as awarded earlier by the Tribunal.

(b) The second respondent/Insurance Company is directed to deposit the Award amount together with interest from the date of claim petition till the date of deposit and costs as assessed by the Tribunal, to the credit of



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M.C.O.P.No.2838 of 2014 within a period of four weeks from the date of receipt of a copy of this Judgment, less the amount if any already deposited. It is needless to state that the appellant shall pay necessary Court fees for the enhanced compensation amount before receiving the copy of this judgment.

(c) On such deposit being made, the Tribunal is directed to transfer the award amount along with accrued interest to the bank account of the appellant/claimant through RTGS within a period of two weeks thereafter, in the light of the judgment of this Court reported in *2016 (2) Law Weekly 561 [The Dvisional Manager, The Oriental Insurance Company Limited, Kannur Vs. Rajesh and Others]*

(d) There shall be no order as to costs.

28.04.2023

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No



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To

- 1.The Special Sub Judge,
Motor Accidents Claims Tribunal,
Dharmapuri.
- 2.The Section Officer
V.R.Section, High Court of Madras.



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A.A.NAKKIRAN, J.

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