



C.M.A.No.2871 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2023

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THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.2871 of 2017

G.Narayanan

... Appellant

..Vs..

1.Tamilarasan
2.Cholamandalam M.S General
Insurance Co. Ltd.,
rep. by its Branch Manager
Dare House, 2nd Floor
N.S.C Bose Road
Chennai-600 001.

... Respondents

Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 14.10.2014 made in MCOP No.112 of 2011, on the file of the Motor Accident Claims Tribunal / Subordinate Court, Arni.

For Appellant : Mr.P.Satheesh Kumar

For Respondents : Mr.R.Sreevidhya for R2
R1 - Exparte



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JUDGMENT

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

3. The Tribunal, under the impugned award, has awarded compensation of Rs.13,000/- together with interest and cost to the Appellant/claimant as detailed hereunder:

<i>Heads</i>	<i>Award Amount (Rs.)</i>
Pain and suffering	10,000/-
Transport charges	2,000/-
Damages to cloths	1000/-
Total	13,000/-



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4. The vehicle owned by the first respondent and insured with the second respondent was the cause of the accident which resulted in the Appellant/claimant sustaining injuries. The Tribunal has also given a conclusive finding that only due to the fault of the vehicle insured with the second respondent, the accident had happened. The said finding has also attained finality, since no appeal has been filed by the respondents.

5. The only question that arises for consideration in this appeal is whether the Appellant/claimant is entitled for enhancement of compensation?

6. The Appellant/claimant was working as Head Constable, aged 40 years at the time of the accident. The claimant sustained grievous injuries on both legs, hands, hip and also severe fracture in right hand and multiple Injuries all over the body.

7. In the claim petition filed before the Tribunal, the Appellant/claimant had made a claim for Rs.3,00,000/-. However, the



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Tribunal under the impugned award has awarded only a compensation of Rs.13,000/- as per the details given above.

8. The Appellant/claimant has also examined the Doctor who examined him as PW2. The Doctor has issued a disability certificate Ex.P6 which reveals that the Appellant/claimant has sustained 35% disability. However, the Tribunal on its own totally rejected the disability certificate, Ex.P6 and has not awarded any compensation towards the disability suffered by the Appellant/claimant as a result of the accident. Eventhough, the disability certificate Ex.P6 may not be a correct assessment, it is an admitted fact that the Appellant/claimant has sustained injuries as referred to supra. This being the case, the Tribunal ought to have granted some amount of compensation towards the said disability suffered by the Appellant/claimant.

9. In the considered view of this Court, after giving due consideration to the nature of the injuries, this Court assesses the disability suffered by the Appellant/claimant at 25%. The year of the accident is 2011. After giving



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due consideration to the year of the accident, the disability compensation of Rs.50,000/- is awarded to the Appellant/claimant by this Court calculated at Rs.2000/- per percentage of disability.

10. As seen from the impugned award, the Tribunal has not assessed the monthly income of the Appellant/claimant. In the claim petition, the appellant/claimant claimed that he was working as Head Constable and was earning Rs.22,000/-. To prove the same, Ex.P5 salary certificate has been produced by the claimant. Further, in the claim petition, it is stated the appellant/claimant was taking treatment at Government V.M.C Hospital, Vellore. But, the Tribunal has totally rejected the claim made towards future loss of income. In the considered view of this Court, the injuries sustained by the Appellant/claimant would have certainly disabled him from doing his regular work as Head Constable for at least one month. Therefore, this Court is inclined to award approximately a sum of Rs.10,000/- as compensation towards loss of income during the period of treatment. The Tribunal has also failed to award any compensation towards extra nourishment and in the considered view of this Court, it would be



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appropriate to award a sum of Rs.5,000/- towards extra nourishment.

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11. Insofar as the compensation awarded under the heads viz., pain and suffering and transportation is very meagre in the considered view of this Court and hence, this Court is inclined to enhance a sum of Rs.15,000/- instead of Rs.10,000/- towards pain and suffering, Rs.5,000/- instead of Rs.2,000/- towards transportation.

12. With regard to the compensation awarded by the Tribunal under the head namely damages to cloths is concerned, the assessment of the compensation under the said head by the Tribunal is just a compensation and it does not call for any interference by this Court.

13. For the forgoing reasons, the compensation awarded by the Tribunal is enhanced from Rs.13,000/- to Rs.86,000/- by this Court as detailed hereunder:



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<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Award Amount (Rs.)</i>
Pain and suffering	10,000/-	15,000/-
Transportation	2,000/-	5,000/-
Extra Nourishment	Nil	5,000/-
Permanent Disability	Nil	50,000/- (25% x2000)
Damages to cloths	1,000/-	1,000/-
Loss of Income during the treatment period	Nil	10,000/-
Total	13,000/-	86,000/-

14. In the result,

(i) This appeal is partly allowed and the compensation awarded by the Tribunal is enhanced from 13,000/- to Rs.86,000/- with interest at the rate of 7.5% p.a. from the date of claim petition till the date of realisation.

(ii) The second Respondent/Insurance Company is directed to deposit the modified amount i.e, Rs.86,000/- along with interest at the rate of 7.5% per annum and costs, after deducting the amount already deposited, if any, to the credit of MCOP.No.112 of 2011 within a period of six weeks from the date of receipt of a copy of this Judgment.

(iii) On such deposit being made, the Tribunal is directed to



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transfer the award amount along with accrued interest as per the order of this Court to the appellant/claimant through RTGS within a period of two weeks thereafter.

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Index: Yes/No

Speaking/Non-speaking order: Yes/No

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To

1.The Subordinate Court/
Motor Accidents Claims Tribunal
Arni.

2.The Section Officer
V.R.Section, High Court of Madras.

A.A.NAKKIRAN, J.

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