



C.M.A.No.976 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 27.04.2023

CORAM:

The HONOURABLE MRS.JUSTICE N.MALA

C.M.A.No.976 of 2023

Chithambaram

... Appellant

vs.

1.Rajamanickam

2.The National Insurance Co., Ltd.,
1st Floor, Niresh Complex,
No.910, Cuddalore Main Road,
P.B.No.7, Attur, Salem District.

3.The National Insurance Co.,Ltd.,
Selvanayaki Complex,
Perundurai Road, 1st Floor,
Erode.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 04.01.2020 made in M.C.O.P.No.321 of 2018 on the file of the Motor Accident Claims Tribunal, (Special Subordinate Judge), Erode.

For Appellant : Mr.C.Paraneedharan

For R2& R3 : Mrs.N.B.Sureka



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JUDGMENT

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This Civil Miscellaneous Appeal is filed by the Appellant challenging the Award dated 04.01.2020 made in M.C.O.P.No.321 of 2018 on the file of the Motor Accident Claims Tribunal, (Special Subordinate Judge), Erode.

2. The appeal is filed seeking enhancement of compensation. The parties shall be referred to as per their ranking in the Tribunal for the sake of convenience.

3. The brief facts of the case are as follows:

On 05.01.2018 at about 06.30.a.m., while the claimant was riding TVS XL Super moped motorcycle from east to west direction in slow speed, the driver of a lorry bearing Registration No.TN.47.A.5352 came in a rash and negligent manner and hit the claimant, as a result of which, the claimant was thrown away from the two wheeler and sustained grievous injuries. The claimant was taken to Government Hospital, Attur for first aid and was later shifted to Universal Hospital, Kondalampatti for further treatment. The claimant thereafter filed the Claim Petition



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claiming a sum of Rs.15,00,000/- as compensation for the injuries sustained by him in the motor accident.

4 The respondent contested the claim petition by filing a detail counter denying all the contentions and allegations in the claim petition. The respondent specifically denied the negligence and quantum.

5. Before the Claims Tribunal, the claimant examined himself as PW1 and Exs.P1 to P13 were marked. On the side of the second and third respondents, no oral and documentary evidence was filed.

6. The Claims Tribunal, on an assessment of the entire evidence on record, awarded a sum of Rs.3,52,000/- as compensation along with interest at the rate of 7.5% p.a. to the claimant for the injuries sustained by him in the accident.

7. Not satisfied with the amount of compensation awarded by the Tribunal, the claimant has preferred the above appeal.



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8. The learned counsel for the claimant submitted that the claimant sustained communitated fracture left distal femur (Ex.P.7- Wound Certificate) and was out of work for more than five months. The learned counsel for the claimant further submitted that the claimant was 39 years old at the time of the accident and as the owner of a Fancy Store earning a sum of Rs.14,000/- per month as income.

9. The learned counsel therefore contended that the award of the Tribunal under the head 'loss of earnings,' 'extra nourishment,' and attender charges were very meagre and the same deserved to be enhanced.

10. The learned counsel for the second and third respondents submitted that the award passed by the Tribunal was just, fair and reasonable and did not call for any interference in this appeal.

11. I have heard both the learned counsels and I have also perused the materials available on record .



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12. From the material evidence on record, I find that as per

Ex.P.7 – Wound Certificate, the claimant sustained comminuted fracture left distal femur. As the accident occurred in 2018, considering the cost escalation for the year 2018, I am of the view that the income can be fixed at Rs.13,000/-p.m.

13. It is seen from the records that the claimant was hospitalised for treatment of fracture for six days as an in-patient. Therefore, I am of the view that the compensation towards 'loss of earnings,' 'extra nourishment' and attender charges also needs to be enhanced .

14. In view of the above discussion, the amount under the heads 'loss of income,' 'extra nourishment' and 'attender charges' is modified as follows:-

Sl. No	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced
1	Loss of Earnings	50,000	65,000	Enhanced
2	Transport to Hospital	10,000	10,000	Confirmed
2	Extra nourishment	5,000	10,000	Enhanced
3	Attender Charges	5,000	10,000	Enhanced



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4	Loss of amenities	25,000	25,000	Confirmed
5	Future Medical expenses	30,000	30,000	Confirmed
6	Damages for clothes and articles	2,000	2,000	Confirmed
7	Medical Expenses	90,000	90,000	Confirmed
8	Pain and sufferings	60,000	60,000	Confirmed
9	Permanent disability and loss of earning power	1,00,000	1,00,000	Confirmed
Total		Rs.3,52,000/-	Rs.3,77,000/-	Enhanced by Rs.25,000/-

In respect of other heads, the award of the Tribunal is confirmed.

15. It is submitted by the learned counsel for the second and third respondents that the amount awarded by the Tribunal has already been deposited . The 2nd and 3rd respondents are directed to deposit the enhancement amount along with interest within a period of four weeks from the date of receipt of a copy of this order.

16. In the result,

- (i) The Civil Miscellaneous Appeal is partly allowed.
- ii) The compensation awarded by the Tribunal is enhanced from Rs.3,52,000/- to Rs.3,77,000/-. The claimant shall be entitled to a further sum of Rs.25,000/- which shall carry interest at the rate of



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7.5% per annum from the date of claim petition till deposit.

(iii)The second and third respondents are directed to deposit the enhanced amount along with interest as stated above, within a period of four weeks from the date of receipt of a copy of this order.

(iii) Upon deposit, the claimant is permitted to withdraw the enhanced award amount along with accrued interest, after filing an appropriate application before the Tribunal.

(iv)The claimant is directed to pay the Court Fee for the enhanced compensation, (if any) and the Registry is directed to draft the decree only after the payment of the same. No costs.

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Index : Yes/No

Neutral Citation : Yes/No

kkd

To:

The Motor Accidents Claims Tribunal,
(Special Subordinate Judge), Erode.



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N.MALA,J.
kkd

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