



C.M.A.No.2848 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2023

CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2848 of 2022

Senthilkumar (41),
S/o.Kandasamy,
Residing at D.No.1A/2, Vellalapatty,
Muniyappan Kovil Thottam,
Suriyampalayam Post,
Tiruchengode Taluk,
Namakkal District - 637 209.

... Appellant

Vs.

1.Arunkumar, S/o.Palanisamy,
Residing at Old D.No.1, New No.1,
Somu Street, Salem District - 636 001.

2.New India Assurance Co. Ltd.,
Town Branch, 1090, Poonamallee Road,
Periamet, Chennai 600 084.

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Decree and Judgment in MCOP.No.231 of 2017 dated 14.07.2022, on the file of the Motor Accident Claims Tribunal/Subordinate Judge Court, Tiruchengode.



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For Appellant : Mr.C.Paraneedharan
For Respondents : Mr.J.Chandran (for R2)
R1- No appearance

J U D G M E N T

The Appeal has been filed against the Decree and Judgment made in MCOP.No.231 of 2017 dated 14.07.2022, on the file of the Motor Accident Claims Tribunal/Subordinate Judge Court, Tiruchengode.

2.The claim Petitioner is the Appellant herein. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3.The claim Petitioner filed MCOP.No.231 of 2017, on the file of the Motor Accident Claims Tribunal/Subordinate Court, Tiruchengode, seeking compensation for the injuries sustained by him in a road traffic accident occurred on 10.07.2017. The Tribunal has awarded a sum of Rs.2,83,000/- with interest at the rate of 7.5%. Aggrieved against the same and seeking enhancement, he has preferred this Appeal.



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4.During the trial, on the side of the claim Petitioner, PW1 was examined, Ex.P.1 to Ex.P.10 were marked and on the side of the Respondents, RW1 & RW2 were examined, Ex.R.1 to Ex.R4 were marked and Ex.C.1 was also marked.

5.Heard the learned counsel for the claim Petitioner and learned counsel for the Insurance Company.

6.The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are not under challenge in this Appeal. Accordingly, the finding rendered by the trial Court that the accident taken place due to the rash and negligent driving of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are hereby confirmed.

7.As per Ex.C1/Medical certificate issued by the Medical Board on 09.12.2020, the disability suffered by the claim Petitioner was fixed at 10%.



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Subsequently, after treatment, the claim Petitioner was again submitted himself for medical examination before the District Medical Board, Government Medical College Hospital, Namakkal and the District Medical Board has re-conducted the medical examination on the claim petitioner and arrived at the permanent disability at 27%. The same is taken as disability of the claim Petitioner/injured. Since the accident is of year 2017, Rs.5,000/- per percentage is fixed for assessing the compensation towards disability.

8.The claim Petitioner/injured was working as power loom worker at the time of the accident and hence, he could have earned minimum Rs.10,000/- per month and he could have lost his four months earning. Accordingly, the compensation is re-fixed as under:

Loss of income [Rs.10,000/- x 4] =Rs.40,000/-

Permanent disability [27 x Rs.5,000/-] =Rs.1,35,000/-

Taking into consideration the nature of injuries as reflected in Ex.C1 and surgery taken place at Ganga hospital, Coimbatore, on the claim Petitioner, I am inclined to allow Rs.10,000/- towards future medical expenses. Accordingly, the compensation awarded under various heads are re-fixed as



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follows:

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<i>S.No.</i>	<i>Heads</i>	<i>Amount (Rs.)</i>
1	Loss of income [Rs.10,000/- x 4]	40000
2	Permanent disability [27 x Rs.5,000/-]	135000
3	Pain and sufferings	30000
4	Medical expenses	172251
5	Nutrition and extra nourishment	10000
6	Attender charges	10000
7	Transportation	10000
8	Loss of amenities	10000
9	Future medical expenses	10000
	Total	427251
	Rounded of	427250

In total, the claim Petitioner is entitled to a sum of Rs.4,27,250/- (Rupees four lakh twenty seven thousand two hundred and fifty only), with 7.5% interest per annum.

9. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the award amount from Rs.2,83,000/- to Rs.4,27,250/- to the extent indicated above, with 7.5% interest per annum. No Costs.



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(ii) the Insurance Company is directed to deposit the enhanced award amount before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) on such deposit being made, the claim Petitioner/Appellant is permitted to withdraw the entire enhanced award amount with accrued interest and costs, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) the claim Petitioner/Appellant is directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

08.02.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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To
The Subordinate Judge,
Motor Accident Claims Tribunal,
Subordinate Court,
Tiruchengode.



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RMT.TEEKAA RAMAN.J,

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