



C.M.A.No.3498 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.02.2023

PRONOUNCED ON : 06.04.2023

CORAM:

THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

C.M.A.No.3498 of 2019

Animuthu Veeran

... Appellant

vs.

1.Kumar

2.The Manager,
National Insurance Company Ltd.,
K.K.Road, Villupuram.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree dated 06.06.2014 in M.C.O.P.No.90 of 2010 on the file of Motor Accident Claims Tribunal (1st Additional Sub-Judge), Villupuram.

For Appellant : Mr.S.Kalyanaraman

For Respondents : Mrs.K.Saraswathi[R2]

For R1 - Notice Dispensed with
vide Court Order dated 28.11.2022



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JUDGMENT

Aggrieved by the award passed by the Motor Accident Claims Tribunal (1st Additional Sub-Judge), Villupuram, in M.C.O.P.No.90 of 2010, dated 06.06.2014, the claimant has preferred this Civil Miscellaneous Appeal for enhancement of compensation.

2. The claimant filed the petition under Section 166 (1) of the Motor Vehicles Act, for the injuries sustained on account of the road accident, occurred on 26.12.2008 and the Tribunal, after trial has passed an Award for an amount of Rs.1,32,000/- with 7.5% interest from the date of filing of petition till the date of deposit.

3. The learned counsel for the appellant would contend that though the appellant was hospitalised for more than a month, for the fracture of his left leg, the Trial Court has granted compensation for loss of income for only one month is incorrect. He further contended that as the appellant sustained both bone fracture of left leg, fracture of lateral condyle, granting Rs.1,00,000/- for disability is insufficient and he would also point out the total compensation though awarded was Rs.1,36,000/-, in the judgment it is mentioned as Rs.1,32,000/-.



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4. Per contra, the learned counsel for the Insurance Company would vehemently argue that the Doctor, who treated the appellant was not examined. The disability assessed by the Doctor, who was examined before the Tribunal was accepted in full. He would further contend that as no surgery was performed on the appellant, the disability assessed as mentioned supra is itself on the higher side.

5. Heard the rival submissions put forth by the learned counsels of both sides and perused the entire material records.

6. Apart from the above said contentions, the manner in which the accident occurred is not in dispute. On perusal of the material records, namely, Ex.P8 - discharge summary reveals the fact that the appellant/claimant was admitted on 26.12.2008 (date of accident) and he was discharged on 31.01.2009. He had sustained fracture of both bone left leg (lower one third) and Left elbow chip fracture. From the evidence of PW1, namely, claimant, it appears that he was working as a cleaner in the lorry. It is relevant to observe the evidence of PW2-Dr.Raveendiran. It is his evidence that due to the fracture sustained over the left leg, claimant's leg is bent, he has difficulties in his left knee which would reflect in the movement. As per Ex.P8-Discharge Summary, he was in the age of 20's at



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the relevant point of time. Considering the effects of injuries, as mentioned supra, PW2-Doctor has stated that he would face difficulties while standing, walking and even lifting weight etc. After the accident, the appellant is limping is to be taken note of, which will definitely have negative impact. Bearing in mind these things with a view to award just compensation for the injuries suffered by the appellant/claimant, it is reasonable to grant instead of Rs.2,000/- per percentage, Rs.2,500/- per percentage is granted, then it would come to $\text{Rs.2,500/-} \times 50 = \text{Rs.1,25,000/-}$ under the head of partial permanent disability.

7. As the appellant sustained both bone fracture in left leg and also simultaneously taking note of the effects of injuries and considering the period of treatment as inpatient he undergone, for the loss of income during the treatment period for three months, additionally an amount of Rs.12,000/- (Rs.4,000/- X 3 months) is hereby granted. No medical bills were produced by the claimant, therefore, the Tribunal has not granted any amount under the head of Medical Bills. However, taking into consideration of the fact that the appellant had taken treatment in Madras Medical College Hospital, thereafter, in the Jipmer Hospital in Pondicherry, that some amount would have been spent for medicines by the claimant, an amount of Rs.5,000/- is hereby granted. In respect of other heads, amount



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awarded by the Tribunal appears to be reasonable, therefore, no need to interfere with the same. Therefore, the Compensation awarded by the Tribunal is reworked as tabulated below:

Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	Disability	Rs.1,00,000/-	Rs.1,25,000/-	Enhanced
2	Loss of Income	Rs. 4,000/-	Rs. 16,000/-	Enhanced
3	Pain and Sufferings	Rs. 20,000/-	Rs. 20,000/-	Confirmed
4	Extra Nourishment	Rs. 3,000/-	Rs. 3,000/-	Confirmed
5	Transportation	Rs. 3,000/-	Rs. 3,000/-	Confirmed
6	Damage to Clothes	Rs. 1,000/-	Rs. 1,000/-	Confirmed
7	Attender Charges	Rs. 5,000/-	Rs. 5,000/-	Confirmed
8	Medical Expenses	Nil	Rs. 5,000/-	Granted
	Total	Rs.1,32,000/-	Rs.1,78,000/-	

8. As rightly pointed out by the learned counsel for the appellant that the total compensation awarded by the Tribunal is mistakenly mentioned as Rs.1,32,000/-. On verification, the total compensation comes to Rs.1,36,000/-.

9. Thus, the compensation awarded by the Tribunal is enhanced from **Rs.1,36,000/-** to **Rs.1,78,000/-** which would carry interest at the rate of 7.5% per annum from the date of petition till the date of realisation.



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10. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from **Rs.1,36,000/- to Rs.1,78,000/-**.

(iii) The 2nd respondent / Insurance Company is directed to deposit the enhanced compensation amount i.e., **Rs.1,78,000/-** (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.90 of 2010 on the file of Motor Accident Claims Tribunal (1st Additional Sub-Judge), Villupuram, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the appellant / claimant is at liberty to withdraw the same on filing of cheque petition. The claimants are directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Tribunal below shall disburse the enhanced amount upon production of the certified copy showing proof of payment of Court fee by the claimant.

06.04.2023

Index : Yes/No
Speaking / Non-speaking order
ssn



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To:

1. The Motor Accident Claims Tribunal,
(1st Additional Sub-Judge),
Villupuram.
2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.



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R.KALAIMATHI, J.,

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Pre-delivery Judgment in

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