



C.M.A.No.1213 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2023

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1213 of 2019

P.Raj @ Mohanraj

... Appellant

Vs

1.L.Sankar

2.ICICI Lambord General Insurance Co.Ltd.
84/85,Arihant Plaza,
Walltax Road,
Parry Carner
Chennai-600 003.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, as against the order dated 21.12.2002 passed in MCOP No.88 of 2010 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Chengalpattu.



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For Appellant	... M/s.A.C.Kumaragurubaran
For Respondents	... Notice not ready for R1
	... M/s.R.Sree Vidhya for R2

JUDGMENT

Aggrieved by the impugned award dated 21.12.2002 passed by the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Chengalpattu in M.C.O.P.No.88 of 2010, the present appeal has been filed by the claimant/appellant seeking enhancement of compensation.

2. On 15.05.2010, the petitioner was travelling in the van belonging to the 1st respondent proceeding from MM.Nagar to peramanoor, GST Road, opposit to Ford Company which was driven by its driver in a rash and negligent manner resulting in the van turning upside down thereby the petitioner sustained grievous injuries. For the injuries sustained, the petitioner has filed a claim petition before the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Chengalpattu in M.C.O.P.No.88 of 2010 claiming compensation.



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3. Before the Tribunal, the claimant examined himself as P.W.1 and marked Ex.P.1 to Ex.P.3. No witnesses were examined nor any documents were marked on the side of the respondents. After considering all the oral and documentary evidence, the Tribunal had awarded compensation in a sum of Rs.54,000/-. Aggrieved by the meagre compensation awarded by the Tribunal, the appellant/claimant is before this Court seeking enhancement of compensation.

4. Learned counsel appearing for the Appellant/Claimant would submit that the compensation of Rs.54,000/- awarded by the Tribunal under various heads in the claim petition is grossly inadequate and a higher compensation ought to have been awarded to the claimant in view of the injuries suffered by the claimant. At the time of accident, the petitioner was working as a driver and he was earning a sum of Rs.10,000/- per month. However, without considering the same, the Tribunal has fixed the notional income at Rs.4000/- and awarded a sum of Rs.16,000/- towards loss of income which is wholly inadequate and requires to be reconsidered. Further, in view of the disability



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sustained by the claimant, he is unable to continue his avocation as before the accident which was not considered by the Tribunal and no compensation has been awarded towards disability. Further, the amount awarded under the other heads are also minimal. Hence he prays for enhancement of the compensation awarded by the Tribunal under various heads.

5. Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company would submit that, taking into consideration all the relevant documents, the Tribunal has rightly fixed the compensation, which does not require any interference. Accordingly, he prays for dismissal of the appeal.

6. Heard the learned counsel appearing for the Appellant as well as the 2nd respondent/Insurance Company and also perused the materials available on record.

7. The factum and manner of the accident is not disputed by the parties and so also the liability. Therefore, this Court is not entering into the said



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aspect. The only grievance of the Appellant/claimant is with regard to the quantum of compensation awarded. It is claimed by the appellant that the compensation awarded by the Tribunal under various heads is grossly inadequate which requires enhancement. It is seen from the records that due to the said accident, the appellant has sustained partial permanent disability, as a result of which, he could not continue his avocation which he was carrying on before the accident

8. Insofar as the claim of compensation towards Loss of earning capacity, this Court is of the view that a sum of Rs.16,000/- awarded by the Tribunal under the said head is meagre and requires to be reconsidered as it is not based on any proper reasoning but merely taking the notional income at Rs.4,000/-. However, the decision of the Supreme Court in the case of ***Raj Kumar Vs. Ajay Kumar & Anr.*** reported in ***2011 (1) SCC 343***, lays down that the manner in which notional income is to be fixed and applying the said ratio, this Court, while fixes a sum of Rs.8,000/- as notional monthly income and considering the fact that the appellant being aged 25 years at the time of



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accident, as evidenced from the records, adopting the multiplier of 18 as fixed by the Apex Court in the case of *Sarla Verma and Ors. v. DTC & Ors.* reported in *(2009) 6 SCC 121*, in view of the nature of injuries sustained by the injured, which requires adopting multiplier method, the loss of earning capacity is arrived at (Rs.8,000/- * 12 * 18 = Rs.17,28,000/-). Further, taking into consideration the disability suffered by the claimant, which is permanently partial in nature, this Court fixes the overall functional permanent disability at 75% and, accordingly, the compensation payable on account of loss of earning capacity to the injured is quantified at Rs.12,96,000/- (Rs.17,28,000/- * 75% = 12,96,000/-).

9. Further, as rightly pointed out by the learned counsel for the claimant, no compensation has been awarded by the Tribunal under the heads, viz., Extra nourishment and Loss of amenities to which the claimant is entitled to. Accordingly, this Court is inclined to award a sum of Rs.10,000/- under the head “Extra nourishment” and a sum of Rs.15,000/- under the head “Loss of amenities”. However, the sum of Rs.8,000/- awarded under the head



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“Transportation” is excessive and the same is reduced to a sum of Rs.5,000/-.

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The compensation of Rs.5,000/- under the head “Medical Expenses” and a sum of Rs.25,000/- under the head “Pain and Sufferings” is just and reasonable and the same does not require any interference.

10. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-

Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
Loss of Earning Capacity	Rs.16,000/-	Rs.12,96,000/- (enhanced)
Loss of Medical Expenses	Rs.5,000/-	Rs.5,000/-
Transport to Hospital	Rs.8,000/-	Rs.5,000/- (reduced)
Extra nourishment		Rs.10,000/-
Pain and Sufferings	Rs.25,000/-	Rs.25,000/-
Loss of amenities	-	Rs.15,000/-
Total	Rs.54,000/-	Rs.13,56,000/-

11. The appeal is allowed and the impugned award of the Tribunal is modified by enhancing the compensation amount from **Rs.54,000/-** to



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Rs.13,56,000/-. The second respondent-Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.88 of 2010 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the amount directly to the bank account of the appellant/claimant through RTGS within a period of two weeks thereafter. The appellant/claimant is directed to pay the necessary Court fee for the enhanced compensation amount. The Tribunal below shall disburse the compensation enhanced by this Court upon proof of payment of necessary additional Court fee by the appellant/claimant. There shall be no order as to costs in the present appeal.

16.11.2023

Index : Yes / No

Neutral Citation Case : Yes / No

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To

- 1.The Motor Accident Claims Tribunal
Chief Judicial Magistrate,
Chengalpattu.
- 2.The Section Officer,
V.R. Section,
High Court, Madras.



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M.DHANDAPANI, J

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