



C.M.A.No.3655 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2023

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.3655 of 2019

Ponnukutti

... Appellant

Vs.

1.K.Raja

2.P.Vancha Kumar

3.M/s. The Oriental Insurance Co., Ltd.,
11, E.VN.Road, 2nd Floor,
Parimalam Complex,
Erode – 638 011.

4.Ayyappan

5.M/s. The National Insurance Co., Ltd.,
78, T.V.Chetty Street,
Erode – 638 001.

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against Judgment and Decree dated 22.03.2014 passed in M.C.O.P.No.114 of 2013 on the file of the Motor Accident Claim Tribunal (Special Subordinate Judge Court), Erode.



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For Appellant : Mr.P.Santhosh
for K.Govi Ganesan

For Respondents
For R1 & R4 : No appearance

For R2 : Not ready in notice

For R5 : M/s.N.B.Surekha

J U D G M E N T

The Appeal has been filed against the Judgment and Decree dated 22.03.2014 made in M.C.O.P.No. 114 of 2013 on the file of the Motor Accident Claims Tribunal (Special Subordinate Judge Court), Erode.

2. The claim Petitioner is the appellant herein seeking compensation for the injuries sustained by him in a road traffic accident occurred on 26.11.2011. The Tribunal has awarded a sum of Rs.2,34,882/- with interest at the rate of 7.5% per annum from the date of numbering of the MCOP Petition till the date of deposit and costs. Aggrieved by the same and seeking enhancement, he has preferred this Appeal.



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3. The factum of the accident, manner of the accident are not under challenge in this Appeal. Accordingly, the findings rendered by the trial Court in this regard are hereby confirmed.

4. During the trial, on the side of the claim Petitioner, P.W.1 to P.W.3 were examined and Ex.P.1 to Ex.P.27 were marked and on the side of the Respondents, no one was examined and no document was marked.

5. On appreciation of the materials before it, the Tribunal awarded compensation as follows:

<i>Sl.Nos.</i>	<i>Heads</i>	<i>Compensation</i>
1.	Loss of income	Rs.13,500/-
2.	Disability	Rs.30,000/-
3.	Pain and suffering	Rs.10,000/-
4.	Extra nourishment	Rs.5,000/-
5.	Damages to cloths	Rs.10,000/-
6.	Transport expenses	Rs.15,000/-
7.	Medical expenses	Rs.1,51,382/-
<i>Total</i>		Rs.2,34,882/-

The said sum was directed to be paid by the respondents 1 to 3 along with



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interest at 7.5% per annum from the date of petition till the date of realization.

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6. The learned counsel for the appellant submitted that the compensation awarded by the Tribunal under various heads are very meagre and unreasonable. Hence, he prays to enhance the compensation awarded by the Tribunal.

7. The learned counsel for the 3rd respondent, on the other hand, submits that the order of the Tribunal is just and fair and it does not requires interference by this Court.

8. Heard the learned counsel appearing for the parties and perused the materials available on records.

9. On the point of quantum of compensation, the Tribunal has awarded Rs.10,000/- towards pain and suffering, Rs.5,000/- towards extra nourishment, Rs.10,000/- towards damages to cloths, which appears to be lower side and hence, this Court is inclined to grant Rs.20,000/- for pain and suffering,



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Rs.10,000/- for extra nourishment and Rs.12,000/- for damages to cloths. The Tribunal awarded Rs.13,500/- towards loss of income, Rs.30,000/- towards disability, Rs.15,000/- towards transportation and Rs.1,51,882/- towards medical expenses, which appears to be just and reasonable and the same are hereby confirmed.

10. In the light of the said discussions, the modified award is as follows:

<i>Sl.Nos.</i>	<i>Heads</i>	<i>Compensation</i>
1.	Loss of income	Rs.13,500/-
2.	Disability	Rs.30,000/-
3.	Pain and suffering	Rs.20,000/-
4.	Extra nourishment	Rs.10,000/-
5.	Damages to cloths	Rs.12,000/-
6.	Transport expenses	Rs.15,000/-
7.	Medical expenses	Rs.1,51,382/-
<i>Total</i>		Rs.2,51,882/-

Accordingly, the amount awarded by the Tribunal is enhanced from Rs.2,34,882/- to Rs.2,51,882/- together with interest at 7.5% per annum from the date of petition till the date of realization

11. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the compensation from Rs.2,34,882/- to Rs.2,51,882/- to the extent indicated



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above. No Costs.

(ii) the respondents 1 to 3 are directed to deposit the enhanced award amount, with interest and costs before the Tribunal, within a period of six (06) weeks from the date of receipt of a copy of this order.

(iii) on such deposit being made, the claim Petitioner 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 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.

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Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

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To

The Presiding Officer,
The Motor Accident Claim Tribunal, (Special Sub-Judge),
Erode.



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A.A.NAKKIRAN.J,

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