



C.M.A.No.1754 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2023

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.1754 of 2019

Anandhan

.. Appellant

Vs.

1. I.Shanmugadurai

2.United India Insurance Company Limited

Pattullos Road Branch

609, Anna Salai

Chennai-600 006.

..Respondents

Prayer: The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the Award dated 29.01.2010 made in MCOP No.696 of 2008 on the file of the Motor Accident Claims Tribunal/ Principal District Judge, Perambalur.

For Appellant

: Mr.V.Anand

For Respondents

: Mr.D.Bhaskaran for R2



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J U D G M E N T

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The Award dated 29.01.2010 passed in MCOP No.696 of 2008 on the file of the Motor Accident Claims Tribunal/Principal District Judge, Perambalur, is under challenge in the present Civil Miscellaneous Appeal.

2. The Motor Accidents Claim Tribunal, under the impugned award, has awarded a compensation of Rs.2,35,000/- together with interest and costs to the Appellant/claimant which is detailed hereunder:

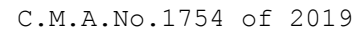
<i>Heads</i>	<i>Award Amount (Rs.)</i>
Disability of 38% at Rs.1500/- per percentage	57,000/-
Medical expenses	88,958/-
Transport charges	18,000/-
Pain and suffering	20,000/-
Extra Nourishment	20,000/-
Loss of amenities	25,000/-
Loss of Income	6,042/-
Total	2,35,000/-

3. Before the Tribunal, the Appellant/claimant has filed 17



documents which were marked as Ex.P1 to Ex.P17 and examined himself as PW1 and the Doctor, who examined the claimant as PW2. On the side of the 2nd respondent/Insurance Company, neither any document was filed nor any witness examined before the Tribunal. The 1st respondent/owner of the vehicle was set exparte.

4. The learned counsel appearing on behalf of the appellant mainly contended that the compensation awarded by the Motor Accident Claims Tribunal is not in commensuration with the grievousness of the injuries sustained by the appellant/claimant. The appellant/claimant sustained multiple fractures due to the accident and had taken treatment as inpatient for a period of 15 days. The appellant being an agriculturist was earning about Rs.6,000/- per month, at the time of accident and there is a loss of earning power. The doctor assessed the disability at 38%. All these aspects have not been considered by the Tribunal. Contrary, the Tribunal has fixed the disability at Rs.1,500/- for one percentage and calculated the compensation, which is improper and inadequate. Further, the compensation



learned counsel prays to enhance the award.

a routine and normal manner.

awarded compensation. Thus, the appeal is devoid of merits and is to be



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dismissed.

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7. Considering the arguments, the accident occurred on 04.08.2006 at about 22.00 hours at Perambalur, near Dhanalakshmi College. The Perambalur Police Station registered a case in Crime No.345 of 2006 under Sections 279 and 337 of IPC. The appellant/claimant sustained grievous injuries viz., i) lacerated wound over right thigh, ii) laceration over right knee, iii) abrasion over the abdomen, iv) multiple abrasion over right hand and v) abrasion over left hand and (vi) also multiple grievous injuries all over the body. The Tribunal adjudicated the issues with reference to the documents and evidences produced by the respective parties. The negligence was attributed against the driver of the Tata Lorry, which belongs to the 1st respondent herein. The findings of the Tribunal is that the lorry driver had driven the vehicle in a rash and negligent manner which resulted in an accident.

8. As far as the quantum of compensation is concerned, the Tribunal

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has fixed a sum of Rs.1,500/- for one percentage. Therefore, this Court is of the considered opinion that the accident occurred in the year 2006 and fixing a sum of Rs.1,500/- is on the lesser side. The appellant/claimant is an agriculturist. Thus, a sum of Rs.2,000/- for one percentage of disability would be appropriate considering the fact that the accident occurred during the year 2006.

9. A perusal of Exhibits P2 and P3 would reveal that the appellant/claimant sustained fracture on his right thigh and laceration over right knee and he had taken treatment as inpatient at KMC Hospital, Trichy for a period of 15 days. In this regard, PW2/doctor deposed that a surgery has been done to the appellant/claimant by fixing plate on his right knee joint and after the accident, the appellant has been deprived of 1 -1/2 cms of height of his right leg. From the evidence of PW2, it would reveal that the movement of the right knee of the appellant was restricted. In the claim petition, it was stated that the Appellant/claimant was an agriculturist and was earning Rs.6000/- at the time of the accident. But, there is no proof of



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income. In the absence of any document, the Tribunal has rightly fixed the monthly income, but the Tribunal has awarded only a sum of Rs.6,042/- towards loss of earning which is on the lesser side. The grievous injuries caused disability and due to which, the appellant/claimant was incapacitated to perform his work in a routine and normal manner. This Court is of the considered view that the appellant/claimant would have been unable to do his work atleast for a period of three months in a routine and normal manner. In view of the above, it would be appropriate to award a sum of Rs.18,000/- (6000 x 3 months) towards loss of earning.

10. Insofar as the other heads of the compensation are concerned, the assessment of the compensation under the said heads by the Tribunal is a just compensation and it does not call for any interference by this Court.

11. For the foregoing reasons, the award passed by the Tribunal is



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modified as follows:

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<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Award Amount by this Court (Rs.)</i>
Disability	57,000/- (1500 x 38%)	76,000/- (2000x 38%)
Medical Expenses	88,958/-	88,958/-
Transport Expenses	18,000/-	18,000/-
Pain and sufferings	20,000/-	20,000/-
Extra Nourishment	20,000/-	20,000/-
Deformity caused by injuries	25,000/-	25,000/-
Loss of earning	6,042/-	18,000/- (6000 x 3)
Total	2,35,000/-	2,65,958/- rounded off to Rs.2,65,960/-

Accordingly, the claimant is entitled to a compensation of Rs.2,65,960/- (Rupees two lakhs sixty five thousand nine hundred and sixty only) along with interest at the rate of 7.5% per annum from the date of claim petition till the date of realization.

12. In the result,



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(i) The Civil Miscellaneous Appeal is partly allowed and the award passed by the Tribunal is enhanced from Rs.2,35,000/- to Rs.2,65,960 /-. No costs.

(ii) The second respondent/insurance company is directed to deposit the revised compensation of Rs.2,65,960/- with interest at the rate of 7.5% p.a. from the date of claim petition till the date of realization, less the amount if already deposited, within a period of six weeks from the date of receipt of a copy of this judgment.

(iii) On such deposit being made, the Tribunal is directed to transfer the award amount to the bank account of the appellant/claimant along with accrued interest through RTGS within a period of two weeks thereafter.

(iv) The appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation amount.

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Index : Yes/No
Speaking Order/Non-Speaking Order
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To

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1.The Motor Accident Claims Tribunal,
Principal District Judge
Perambalur.

2.The Section Officer,
V.R Section,
High Court, Madras.

A.A.NAKKIRAN, J.
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