



C.M.A.No.1013 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2023

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1013 of 2019

Kumar

... Appellant

Vs

1.Kasthuri

2.The Managing Director,
Tamilnadu State Transport Corporation,
Villupuram.

3.The Divisional Manager,
The United India Insurance Co.Limited,
No.16, Katpadi Salai,
Vellore.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, as against the judgment and decree dated 27.08.2010 and made in M.A.C.T.O.P.No.536/2005 on the file of the Motor Accident Claims Tribunal and Principal Sub Judge, Thiruvanamalai.



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For Appellant ... M/s.M.Malar
For Respondents ... Ex-parte [R1]
... No Appearance for [R2]
... Ms.I.Malar for [R3]

JUDGEMENT

Aggrieved by the impugned award dated 27.08.2010 passed by the Motor Accident Claims Tribunal, Principal Sub Judge, Thiruvannamalai in M.A.C.T.O.P.No.No.536 of 2005, the present appeal has been filed by the claimant/appellant seeking enhancement of compensation.

2. On 13.08.2004, the claimant was travelling as a passenger in a bus bearing Regn No.TN-32-N-1473 that was proceeding towards Tiruvannamalai, belonging to the 2nd respondent management, insured with the 3rd respondent, at which time, the bus bearing Regn No.TN-32-V-0177 belonging to the 1st respondent which came in the opposite direction from Tiruvannamalai to Thindivanam, driven by its driver in a rash and negligent manner and dashed against the bus in which the injured claimant was travelling resultantly, the claimant suffered grievous injuries and he was admitted at Government



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Hospital, Tiruvannamalai and given treatment. Aggrieved by which, the claimant filed a claim petition claiming the compensation under various heads before the Motor Accidents Claims Tribunal, Principal District Judge, Tiruvannamalai.

3. Before the Tribunal, the claimant examined himself as P.W.1 and examined the doctor as P.W.2 and marked viz., Ex.P.1 to Ex.P.10. No witnesses were examined nor any documents were marked on the side of the respondents. The Tribunal, on considering the oral and documentary evidence, awarded a sum of Rs.90,000/- under various heads. Not satisfied with the same, the present appeal has been filed by the claimant seeking enhancement.

4. Learned counsel appearing for the claimant submitted when the Tribunal has accepted that the bus which belonging to the 1st respondent was driven in a rash and negligent manner and was the cause for the accident and when the doctor, P.W.2, had clearly deposed about the injuries suffered by the claimant, the compensation awarded by the Tribunal is grossly inadequate. When P.W.2 has clearly deposed about the disability suffered by the claimant,



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the amount of Rs.2000/- per percentage of disability awarded by the Tribunal is wholly inadequate. Further, the amount awarded under the heads pain and suffering, nutrition and transportation is also minimal, which requires enhancement.

5. Per contra, learned counsel appearing for the respondent/insurance company submitted that the amount of Rs.2000/- awarded per percentage of disability is reasonable and so also the compensation awarded under the other heads, which does not require any enhancement.

6. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

7. The factum of the accident is not disputed by the parties and so also the liability. Therefore, this Court is not entering into the said aspect. The only grievance of the claimants is with regard to the quantum of compensation awarded. In this regard, the crucial evidence is that of P.W.2, the doctor, who



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has deposed that the claimant had suffered 40% permanent disability. Though the doctor had quantified the disability at 40%, however, considering the injuries, the Tribunal had fixed the disability at 35% and awarded a sum of Rs.70,000/- by adopting a sum of Rs.2000/- per percentage of disability, which cannot be said to be a meagre amount, as the Tribunal, appreciating the evidence of the doctor, had fixed the per percentage at Rs.2000/- after reducing the disability to 35%. Therefore, this Court feels that no interference is warranted with the said compensation awarded.

8. Further, this Court finds that the compensation awarded under the heads disability, transportation, extra nourishment, loss of income are just and reasonable and does not require any interference. However, insofar as the compensation awarded towards pain and suffering is concerned, this Court feels that a sum of Rs.25,000/- would be just and reasonable compensation.

9. In the above circumstances, the compensation awarded by the Tribunal under the below mentioned heads are modified as under :-

Head of Compensation	Amount	Amount
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	awarded by Tribunal	awarded by this Court
Disability @ Rs.2000/- per percentage	Rs.70,000/-	Rs.70,000/-
Transportation	Rs.2,000/-	Rs.2000/-
Nutrition	Rs.2000/-	Rs.2000/-
Attender Charges	Rs.2000/-	Rs.2000/-
Pain and Suffering	Rs.5,000/-	Rs.25,000/- (enhanced)
Loss of Income during treatment period	Rs.9,000/-	Rs.9000/-
TOTAL	Rs.90,000/-	Rs.1,10,000/-

10. The appeal is partly allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.90,000/-** to **Rs.1,10,000/-**. The third respondent-Insurance Company is directed to deposit the said amount to the credit of M.A.C.T.O.P.No.536 of 2005 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 six (6) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant/claimant is permitted to withdraw the enhanced award amount, along with interest and costs. The appellant/claimant is directed to pay the necessary Court fee for the enhanced compensation amount. The Tribunal below shall disburse the



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enhanced amount upon proof of payment of Court fee is produced by the appellant/claimant. There shall be no order as to costs in the present appeal.

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Index : Yes / No
Speaking Order / Non-speaking order
Neutral Citation Case : Yes / No

NHS

To

- 1.The Motor Accident Claims Tribunal,
Principal sub Judge,
Tiruvannamalai.
- 2.The Section Officer,
V.R. Section,
High Court, Madras.



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M.DHANDAPANI, J

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