



C.M.A.No.4494 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2023

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.4494 of 2019

Rasithiyan

(The Sole Appellant declared as major and his friend/next friend viz, M.Rajmohan is discharged from Guardianship of sole appellant, vide Court order dated 03.10.2023 made in C.M.P.No.16022 of 2023 in C.M.A.No.4494 of 2019) ... Appellant

Vs

1. S.Baskaran

2.M/s.Pondicherry Chemicals
B-188, Industrial Estate, Mettupalayam
Pondicherry.

3.The United India Insurance Co.Ltd.,
Rep by its Branch Manager
No.2, Church Street,
Karaikal

... Respondents



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PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, as against the award insofar as it relates to the quantum and enhance the quantum of compensation from R.76,610/- to Rs.1,50,000/- payable by the Respondents to the Appellant by suitably enhancing the compensation by award dated 04.09.2012 in M.A.C.T.O.P No.115 of 2011, on the file of the Motor Accident Claims Tribunal (District Judge), Karaikal.

For Appellant ... Mr.R.Saravanan
for Mr.T.Saikrishnan

For Respondents ... Notice dispensed with for R1

No Appearance for R2

Mr.D.Baskaran for R3

JUDGEMENT

Aggrieved by impugned award passed by the Motor Accident Claims Tribunal, Karaikal in M.A.C.T.O.P.No.No.115 of 2011 wherein the Tribunal had awarded lower compensation, the present appeal has been filed by the claimant/appellant seeking enhancement of compensation.



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2. On 24.10.2010, when the claimant was travelling as a pillion rider in the bicycle along with one Giritharan, the tanker lorry bearing Regn. No.PY-01-L-2147, belonging to the 1st respondent and insured with the 3rd respondent, driven by the 1st respondent in a rash and negligent manner, dashed against the bicycle in which the injured claimant was travelling due to which, the claimant suffered grievous injuries on his right calf and the claimant was admitted at the Government Hospital, Karaikal, from where he was shifted to M/s.Rohini Hospitals, Thanjavur. Thereafter, he was again shifted to M/s.Pentagon Hospitals, Nagapattinam. Since the claimant was not able to do the regular work after suffering the injuries, the claimant claimed a compensation under various heads before the Motor Accidents Claims Tribunal, Karaikal.

3. Before the Tribunal, the claimant marked twenty three documents viz., Ex.P.1 to Ex.P.23. 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.76,610/- under various



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heads. Not satisfied with the same, the present appeal has been filed by the claimant seeking enhancement.

4. Learned counsel appearing for the claimant/petitioner submits that the compensation awarded under various heads requires to be reconsidered and a higher compensation ought to have been awarded to the claimant. Accordingly, he prayed for enhancement of compensation.

5. Per contra, learned counsel appearing for the insurance company submitted that the Tribunal, taking into consideration all the relevant documents has rightly fixed the compensation, which does not require any interference. Accordingly, he prayed for dismissal of the appeal.

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



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the liability. Therefore, this Court is not entering into the said aspect. The only grievance of the claimant is with regard to the quantum of compensation awarded. Considering the nature of injuries sustained by the claimant, compensation towards pain and suffering should be enhanced from Rs.10,000/- to Rs.30,000/-. Further, this Court finds the compensation awarded under the other heads are just and reasonable which requires no interference.

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

Head of Compensation	Amount awarded by Tribunal	Amount awarded by this Court
Pain and Suffering	Rs.10,000/-	Rs.30,000/-
Nutrition	Rs.5,000/-	Rs.5,000/-
Future Medical Expenses	Rs.61,610/-	Rs.61,610/-
TOTAL	Rs.76,610/-	Rs.96,610/-

9. The appeal is partly allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from Rs.76,610/- to Rs.96,610/-. The third respondent-Insurance Company is directed to deposit



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the said amount to the credit of M.A.C.T.O.P.No.115 of 2011 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 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

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1.The Motor Accident Claims Tribunal,
District Judge,
Karaikal.

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



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C.M.P.No.16022 of 2023

in

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M.DHANDAPANI, J.

The Appellant was minor at the time of filing M.A.C.T.O.P.No.115 of 2011 on the file of the Motor Accidents Claims Tribunal, Karaikal.

2. In view of the fact that the Appellant has attained majority, as is evident from the birth certificate annexed with the above C.M.P, he is declared as major. Accordingly, this petition is ordered and the natural guardian of the Appellant namely M.Rajmohan is discharged.

3. Registry is directed to carry out the necessary amendements in the cause title.

03.10.2023

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