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C.M.A.No.3718 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3718 of 2019

S.Ravi @ Ravichandran

... Appellant

Vs.

1.A.Prakash

2.S.Gandhimathi

3.The New India Assurance Co. Ltd.,
Kongu Complex,
Opp. to Bus Stand,
Dharapuram.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation amount awarded in judgment and decree dated 11.04.2008 made in M.C.O.P.No.583 of 2007 on the file of the Motor Accidents Claims Tribunal / First Additional District Court, Erode.

For Appellant : Mr.N.Manokaran

For Respondents : R1 – Died (Steps due)
R2 – Not Ready Notice
Mr.M.Krishnamoorthy for R3



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J U D G M E N T

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This appeal has been filed against the judgment and decree dated 11.04.2008 passed by the Motor Accidents Claims Tribunal / First Additional District Court, Erode, in M.C.O.P.No.583 of 2007.

2.The learned counsel appearing for the appellant submitted that on 14.05.2007 at about 1.45 p.m., the appellant was riding the moped bearing Registration No.TN 28 F 3409 on Manickkampalayam to Villarasampatti Main Road near Karuvilparai. At that time one Mini Bus bearing Registration No.TN 33 AE 8998 came from the opposite direction in a rash and negligent manner and dashed the moped, due to which, the appellant sustained injuries.

3.The learned counsel appearing for the appellant further submitted that thereafter, the injured claimant/ appellant filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.3 Lakhs. However, the Tribunal awarded only a sum of Rs.27,000/- as compensation to the claimant. The learned counsel further submitted that the amount awarded by the Tribunal is very meagre and hence, the appellant/ claimant is entitled for enhancement of compensation.

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4.The learned counsel appearing for the third respondent Insurance Company submitted that the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference.

5.Heard the learned counsel appearing for the appellant claimant as well as the learned counsel appearing for the third respondent Insurance Company and perused the materials available on record.

6.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only questioning the quantum of compensation.

7.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.10,000/- for disability, Rs.1,000/- for nutritious food and transportation expenses, Rs.16,000/- for injuries, pain and sufferings and arrived at a total compensation of Rs.27,000/- with interest at the rate of 7.5%p.a. from the date of petition till the date of realisation and proportionate costs.



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8.The Doctor has assessed the disability of the injured claimant as 20% partial permanent disability and the Tribunal has fixed the disability as 10%. Since the assessment of disability varies from Doctor to Doctor, this Court fix the disability of the claimant as 15% and at the relevant point of time Rs.2,000/- per percentage of disability was awarded. Hence, amount awarded for disability works out to Rs.30,000/- [15% X Rs.2,000/- = Rs.30,000/-].

9.The amount awarded under the other heads, in the opinion of this Court is low and this Court is inclined to enhance the amount awarded under the other heads. Accordingly, the amount awarded for nutritious food and transportation expenses is enhanced to Rs.6,000/- from Rs.1,000/-, the amount awarded for injuries, pain and sufferings is enhanced to Rs.25,000/- from Rs.16,000/-. This Court is of the opinion that some amount has to be awarded for medical expenses and attendant charges. Accordingly, this Court awards a sum of Rs.5,000/- for medical expenses and a sum of Rs.2,000/- for attendant charges.



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10. Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	For disability	Rs.10,000/-	Rs.30,000/-
2.	For nutritious food and transportation expenses	Rs. 1,000/-	Rs. 6,000/-
3.	For injuries, pain and sufferings	Rs.16,000/-	Rs.25,000/-
4.	For medical expenses	---	Rs. 5,000/-
5.	For attendant charges	---	Rs. 5,000/-
	Total	Rs.27,000/-	Rs.71,000/-

11. The appellant claimant is entitled to total compensation of Rs.71,000/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of realisation.

12. The civil miscellaneous appeal is allowed on the above terms. The judgment and decree passed in M.C.O.P.No.583 of 2007 dated 11.04.2008 by the Motor Accidents Claims Tribunal / First Additional District Court, Erode, is modified to the above extent.

13. The third respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal



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within a period of four weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such deposit being made, the appellant/ claimant is permitted to withdraw the modified/ enhanced award amount, along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellant/ claimant shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The appellant/ claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accidents Claims Tribunal / First Additional District Court, Erode, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellant/ claimant.

14.The civil miscellaneous appeal is allowed. No costs.

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal/
First Additional District Court, Erode.

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M.DHANDAPANI,J.
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