



C.M.A.No.3664 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

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1. V.Radhakrishnan (Died)
 2. Sundarambhal
 3. Ramesh
 4. Hemamalini
 5. Rajesh Radhakrishnan
- (Sole appellant died. Appellants 2 to 5 are brought on record as Lrs of the deceased sole appellant viz.V.Radhakrishnan vide Court order dated 17.11.2023 made in C.M.P.Nos.16366, 16370 and 16373 of 2023 in CMA.No.3664 of 2019)*

... Appellants

Vs.

1. Manikandan
2. M/s.Sri Murugan Flour Mills Pvt. Ltd.,
28, Rajaramanna Nagar,
Palacode Road, Pollachi Town,
Coimbatore Dt.
3. The Branch Manager,
Royal Sundaram Alliance
Insurance Co. Ltd.,
South Zone Office,
46, Whites Road, Chennai – 14.

... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor



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Vehicles Act, 1988, for enhancement of the compensation amount awarded in Judgment and Decree dated 30.09.2005 made in M.C.O.P.No.40 of 2004 on the file of the Motor Accident Claims Tribunal / Sub Court, Pollachi.

For Appellants : Mr.N.Manokaran

For Respondents : Not Ready in notice [R1 & R2]
Mr.E.Rajadurai [R3]

JUDGEMENT

Aggrieved by the compensation granted by the Motor Accident Claims Tribunal / Sub Court, Pollachi in M.C.O.P.No.40 of 2004 dated 30.09.2005, the legal heirs of the claimants are before this Court.

2. Brief facts which are necessary for disposal of this appeal are as follows:-

(i) On 20.06.2003 at about 7:45 a.m., when the petitioner was coming out from a grocery shop after buying provision, at that time a lorry bearing Regn.No.TN 02 K 2217 driven by the first respondent came in a rash and negligent manner and dashed against the petitioner and the two wheeler belonging to the petitioner bearing Regn.No.TN 41 L 5918, due to which the petitioner sustained grievous injuries and was admitted in a Government



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Hospital. Claiming compensation in a sum of Rs.16,02,100/- for the injuries sustained by the petitioner, he has filed a claim petition before the Tribunal.

3. Before the Tribunal, the claimant examined P.W.1 and P.W.2 and marked Exs.P.1 to Ex.P.12. No documents were marked on behalf of the respondents. After adjudication, the Tribunal granted a sum of Rs.3,08,500/- in favour of the claimant. Challenging the same, the present appeal has been filed by the claimant, as the claimant passed away during the pendency of this appeal, the legal heirs of the claimant were impleaded as parties in this appeal.

4. The learned counsel appearing for the appellants submitted that the Tribunal has awarded only a sum of Rs.1,500/- under the head “pain and suffering” which is on the lower side and the same requires to be re-considered. Moreso, a sum of Rs.1,000/- has been granted under the head “nutrition”, which is very meagre and the same requires to be enhanced and no amount has been granted under the head attender charges. Hence, he prays this Court to enhance the said heads.



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5. Per contra, the learned counsel appearing for the third respondent / insurance company submits that by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.

6. Heard the learned counsel for the appellants and the learned counsel appearing on behalf of the third respondent and perused the materials available on record.

7. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The only grievance of the appellants is with regard to the quantum of compensation awarded under the heads pain and suffering, nutrition and also that no compensation has been awarded under the head attender charges. As per Ex.P.12, disability certificate, the Tribunal has assessed the disability at 30% and at the relevant point of time, the Tribunal has rightly fixed a sum of Rs.1,000/- per percentage of



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disability. Hence, this Court is not inclined to interfere with the award granted under the head “permanent disability”.

8. Further, the Tribunal had awarded a sum of Rs.1,500/- towards pain and suffering which is on the lower side and the same is enhanced to a sum of Rs.25,000/-; a sum of Rs.1,000/- towards nutrition, which is also on the lower side and the same is enhanced to a sum of Rs.10,000/-; No amount has been granted under the head attender charges, hence, this Court fixes a sum of Rs.10,000/- towards attender charges. This Court finds that the compensation awarded under the other heads are just and reasonable and does not require any interference.

9. In view of the above, the compensation awarded by the Tribunal is modified as under :-

<i>S.No.</i>	<i>Description</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
1	Disability	30,000/-	30,000/-
2	Transportation	6,000/-	6,000/-



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S.No.	Description	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
3	Medical bills as per Ex.P.9	25,000/-	25,000/-
4	Medical bills as per Ex.P.10	1,75,000/-	1,75,000/-
5	Medical bills as per Ex.P.11	70,000/-	70,000/-
6	Pain and Suffering	1,500/-	25,000/- (enhanced)
7	Nutrition	1,000/-	10,000/- (enhanced)
8	Attender charges	-	10,000/-
	Total	3,08,500/-	3,51,000/-

10. Accordingly, this appeal is partly allowed and the compensation amount is enhanced from **Rs.3,08,500/-** to **Rs.3,51,000/-** and the third respondent/Insurance Company is directed to deposit the compensation amount, awarded by this Court above, to the credit of M.C.O.P.No.40 of 2004 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 four weeks (4) from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account



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of the appellants through RTGS within a period of two weeks thereafter upon production of proof with regard to payment of Court fee on the enhanced compensation. It is made clear that the award granted shall be apportioned among the appellants as per the order of the Tribunal. Though this Court vide order dated 17.11.2023 has inadvertently stated that the appellants are not entitled for any interest for the delay period of 1458 days, however mere delay will not deprive the appellants for entitlement of interest. Hence, it is made clear that the appellants are entitled for interest even for the delay period of 1458 days. The appellants are directed to pay necessary additional Court fee on the enhanced compensation amount. There shall be no order as to costs in the present appeal.

23.11.2023

Index : Yes / No
Speaking Order / Non-speaking order
Neutral Citation Case : Yes / No
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M.DHANDAPANI,J.,

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To

- 1.Motor Accident Claims Tribunal / Sub Court, Pollachi.
- 2.The Section Officer,
V.R. Section,
High Court, Madras.

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23.11.2023