



C.M.A.No.999 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2023

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.999 of 2019

A.Vasudevan

... Appellant

Vs

1.K.Manikandan

2.United India Insurance Co.Ltd.,
Rep by its Divisional Manager,
Katpadi, TKM Complex,
Vellore-4.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, as against the fair and decretal award dated 03.06.2008 passed in M.C.O.P.No.342 of 2005 on the file of Motor Accident Claims Tribunal Cum Chief Judicial Magistrate, Vellore.

For Appellant ... M/s.M.R.Sivakumar

For Respondents ... M/s.I.Malar for R2

... Notice not ready for R1



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JUDGMENT

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Aggrieved by impugned award passed by the Motor Accident Claims Tribunal Cum Chief Judicial Magistrate, Vellore in M.C.O.P.No.342 of 2005, the present Appeal has been filed by the claimant/appellant seeking enhancement of compensation.

2. On 21.08.2005, when the claimant was travelling as a pillion rider in TVS Fiero the two wheeler bearing registration No.TN-23-H-6126 from Arcot to Vellore by-pass road, which was driven by its driver in a rash and negligent manner, dashed against the heap of jelly stone due to which, the claimant suffered grievous injuries and the claimant was admitted in C.M.C Hospital, Vellore. 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 Cum Chief Judicial Magistrate, Vellore in M.C.O.P.No.342 of 2005.



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3. Before the Tribunal, the claimant examined himself as P.W.1 and marked Ex.P.1 to Ex.P.23. No witnesses were examined nor any documents were marked on the side of the respondents except Ex.R.1 which was the insurance policy. The Tribunal, on considering the oral and documentary evidence, awarded a sum of Rs.2,02,000/- 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/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.



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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 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.2,000/- to Rs.25,000/-. 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 :-



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Head of Compensation	Amount awarded by Tribunal	Amount awarded by this Court
Disability	40% x Rs.2000/- = 80,000/-	Rs.80,000/-
Loss of income	Rs.8,000/-	Rs.8,000/-
Pain and sufferings	Rs.2,000/-	Rs.25,000/-
Transportation charges	Rs.2,000/-	Rs.2,000/-
Medical expenses	Rs.1,10,000/-	Rs.1,10,000/-
TOTAL	Rs.2,02,000/-	Rs.2,25,000/-

9. The appeal is partly allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from Rs.2,02,000/- to Rs.2,25,000/-. The second respondent-Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.342 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 four (4) 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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M.DHANDAPANI, J

NHS

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 Cum
Sub Court,
Sankari.

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

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