



C.M.A.No.1520 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.1520 of 2019

Ravi

... Appellant

Vs

1.R.Manikandan

2.The united India Insurance Co.Ltd.,
No.235, Military Road, Avadi,
Chennai-54.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, as against the award passed by the Motor Accident Claims Tribunal, II Addl.District Court, Thiruvallur at Poonamallee dated 15.07.2013 in M.C.O.P.No.457 of 2010.

For Appellant

... Ms.Y.Jayanthi Bhaskar
for M/s.J.Mahalingam

For Respondents

... Notice not ready for R1
... Ms.Rekha Roshini
for Mr.C.Paranthaman for R2



C.M.A.No.1520 of 2019

JUDGMENT

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Aggrieved by impugned award passed by the Motor Accident Claims Tribunal II Addl.District Court, Thiruvallur at Poonamallee made in M.C.O.P.No.457 of 2010 dated 15.07.2013, the present appeal has been filed by the claimant/appellant seeking enhancement of compensation.

2. On 20.01.2016, the claimant was riding the bicycle, the lorry bearing Reg.No.TN-22-B-7944 belonging to the 1st respondent which was driven by its driver in a rash and negligent manner, dashed against the bicycle due to which, the claimants suffered grievous injuries. Aggrieved by which, the claimant has filed a claim petition in M.C.O.P.No.457 of 2010 claiming compensation for the injuries sustained by him under various heads.

3. Before the Tribunal, the claimant examined himself as P.W.2 and marked the documents viz., Ex.P.1 to Ex.P.5. No witnesses were examined nor any documents were marked on the side of the respondents. After considering all the oral and documentary evidence, the Tribunal had awarded the compensation amount of Rs.59,000/- in the claim petition. Aggrieved by the



C.M.A.No.1520 of 2019

quantum of compensation awarded by the Tribunal, the appellant/claimant is before this Court seeking enhancement of compensation.

4. Learned counsel appearing for the claimants submitted that when the Tribunal has accepted that the lorry was driven in a rash and negligent manner which was the cause for the accident and when the doctor, P.W.3, had clearly deposed about the injuries suffered by the claimant, the compensation awarded by the Tribunal is grossly inadequate. When P.W.3 has clearly deposed about the disability suffered by the claimant, the amount of Rs.2,000/- per percentage of disability awarded by the Tribunal is wholly inadequate. Further, the amount awarded under the other heads is also minimal. Hence he prays for enhancement of the compensation awarded by the Tribunal under various heads.

5. Per contra, learned counsel appearing for the 2nd 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. Accordingly, he prays for



C.M.A.No.1520 of 2019

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. In this regard, the crucial evidence is that of P.W.3, the doctor, who has deposed that the claimant had suffered 25% of disability, however, the Tribunal had fixed the disability only at 20% and had erroneously adopted a sum of Rs.2,000/- per percentage of disability and awarded a sum of Rs.40,000/-. However, as per the existing law at the relevant point of time, the Tribunal ought to have fixed a sum of Rs.3,000/- per percentage of disability. Hence, this Court is inclined to fix a sum of Rs.3,000/- per percentage of disability. Therefore, the amount under the head of compensation for disablement stands enhanced to a sum of Rs.60,000/- (20 x Rs.3,000/- =



C.M.A.No.1520 of 2019

Rs.60,000/-).

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8. Further, the Tribunal had awarded a sum of Rs.12,000/- towards Loss of Income; Rs.3,000/- towards pain and sufferings; Rs.2,000/- towards Extra nourishment and damages; Rs.2,000/- towards Transport expenses. This Court finds that the compensation awarded under the heads loss of income, pain and sufferings, extra nourishment, transport expenses and medical expenses are just and reasonable and does not require any interference. However, insofar as the compensation awarded towards pain and sufferings is concerned, this Court feels that a sum of Rs.25,000/- would be just and reasonable compensation and to that extent the compensation awarded under the said heads are modified.

9. 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
Disability	20% x Rs.2000/- =Rs.40,000/-	20% x Rs.3000/- =60,000/-
Loss of Income	Rs.12,000/-	Rs.12,000/-



C.M.A.No.1520 of 2019

WEB COPY

Pain and suffering	Rs.3,000/-	Rs.25,000/-
Extra Nourishment	Rs.2,000/-	Rs.2,000/-
Transport Charges	Rs.2,000/-	Rs.2,000/-
TOTAL	Rs.59,000/-	Rs.1,01,000/-

10. Accordingly, the appeal is partly allowed and the impugned award of the Tribunal is modified enhancing the compensation amount from **Rs.59,000/-** to **Rs.1,01,000/-**. However, it is made clear that the appellant is not entitled for any interest amount. The 2nd respondent-Insurance Company is directed to deposit the enhanced amount to the credit of M.C.O.P.No.457 of 2010 as awarded by this Court, 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. 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.

17.11.2023

Index : Yes / No



C.M.A.No.1520 of 2019

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

NHS

To

- 1.The Motor Accident Claims Tribunal Cum
II Addl.District Court, Thiruvallur
- 2.The Section Officer,
V.R. Section,
High Court, Madras.



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C.M.A.No.1520 of 2019

M.DHANDAPANI, J

NHS

C.M.A.No.1520 of 2019

17.11.2023