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CMA.No.2539 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

Civil Miscellaneous Appeal No.2539 of 2019

S.Vadivelu

... Appellant/Claimant

-Vs-

1.Selvaraj

2. The Divisional Manager,
New India Assurance Company Limited,
No.1, Officer's Line, Vellore.

3. A.M.Velu Mudaliar

4. The United India Insurance Company Limited,
Divisional Office, Ranipet,
Vellore District.

... Respondents

Prayer : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the judgment and decree dated 03.11.2010 made in M.C.O.P.No.29 of 1992 on the file of the Motor Accident Claims Tribunal, Ranipet, Vellore District(Sub Court, Ranipet, Vellore District).

For Appellant : Mr.T.Dhanyakumar

For Respondents : Mr.K.Padmanabhan [R2]

Mr.P.Vedavalle [R3]

Mr.M.J.Vijayaraghavan [R4]



CMA.No.2539 of 2019

JUDGMENT

WEB COPY This Civil Miscellaneous Appeal arises against the judgment of the Motor Accident Claims Tribunal, Ranipet, Vellore District (Sub Court, Ranipet, Vellore District), passed in M.C.O.P.No.29 of 1992 on 03.11.2010.

2. The claimant has filed this appeal seeking enhancement of compensation.

3. It is a case of the appellant/claimant that on 11.09.1991 at about 1.10 p.m., when the appellant was travelling in a bus from Arakkonam to Kanchipuram as a passenger, a lorry bearing Registration No.MDO 4855 came in the opposite direction in a rash and negligent manner and hit the bus, as a result, the appellant/claimant sustained injuries. The first and third respondents are the owners of the vehicles and the second and fourth respondents are its insurers. Hence, the petitioner has filed a petition before the Tribunal claiming a sum of Rs.3,00,000/- as compensation from the respondents together with interests and costs for the injuries sustained by him.



CMA.No.2539 of 2019

4. Before the Tribunal, on behalf of the claimant, the claimant and a doctor were examined and six exhibits were marked. None were examined on the side of respondents nor were any exhibits marked.

5. On appreciation of the materials before it, the Tribunal awarded compensation as follows:

(a)Injuries	:	Rs. 55,000/-
(b)Pain and Suffering	:	Rs. 10,000/-
(c)Extra Nourishment	:	Rs. 2,000/-
(d)Transport expenses	:	Rs. 3,000/-
(e)Loss of Amenities	:	Rs. 5,000/-

Rs. 75,000/-

The said sum was directed to be paid by the second respondent along with interest at 7.5% per annum from the date of petition till the date of deposit of the award amount.

6. Learned counsel for the appellant/claimant submits that the appellant underwent surgery and steel plates were implanted on his right hand and he is not able to do his day-to-day work owing the injury suffered in the accident and the injury is also a permanent one. Though the doctor had assessed the disability at 60%, the Tribunal erred in fixing the disability at 55% and awarding a sum of Rs.55,000/- towards injuries



CMA.No.2539 of 2019

and Rs.10,000/- towards pain and sufferings. Considering the nature of injuries suffered by the appellant, the Tribunal ought to have adopted multiplier method and awarded compensation accordingly. Learned counsel further submits that the award under the other head is also on the lower side.

7. The learned counsel for the respondent, on the other hand, submits that the order of the Tribunal is fair and justified and it does not require interference by this Court.

8. Heard the learned counsel appearing for the parties and perused the records.

9. Considering the nature of injuries sustained by the appellant, this Court is of the view that the sum of Rs.55,000/- awarded towards injuries is justifiable. However, the award of 10,000/- granted towards pain and suffering needs to be enhanced and the same is enhanced to Rs.25,000/-. Similarly, the award of Rs.2,000/- and Rs.3,000/- awarded towards extra nourishment and transportation respectively is on the lower side and hence, the same is enhanced to Rs.3,000/- and Rs.4,000/-



CMA.No.2539 of 2019

respectively. This Court also finds that no sum has been granted towards damages to clothes and accordingly, a sum of Rs.1,000/- is granted under such head. The amount awarded under the other heads are hereby confirmed.

10. Accordingly, the modified award is calculated as follows:

<i>S.No.</i>	<i>Particulars</i>	<i>Award of Tribunal</i>	<i>Enhanced amount</i>	
1.	Injury	Rs. 55,000/-	Rs. 55,000/-	Confirmed
2.	Pain and Suffering	Rs. 10,000/-	Rs. 25,000/-	Enhanced
3.	Transportation	Rs. 3,000/-	Rs. 4,000/-	Enhanced
4.	Extra Nourishment	Rs. 2,000/-	Rs. 3,000/-	Enhanced
5.	Loss of amenities	Rs. 5,000/-	Rs. 5,000/-	Confirmed
6.	Damages to Clothes	Rs. Tribunal not awarded	Rs. 1,000/-	Granted
		Rs. 75,000/-	Rs. 93,000/-	

11. Accordingly, the amount awarded by the Tribunal is enhanced from Rs.75,000/- to Rs.93,000/- together with interest at 7.5% per annum from the date of petition till date of deposit.

12. The second respondent/ Insurance Company is directed to deposit the entire amount i.e., Rs.93,000/- together with interest at 7.5% per annum, less the amount already deposited, if any, from the date of



CMA.No.2539 of 2019

petition till the date of deposit to the credit of MCOP.No.29 of 1992 on the file of the Motor Vehicle Accident Claims Tribunal, Ranipet, Vellore District (Sub Court, Ranipet, Vellore District) within a period of six(6) weeks from the date of receipt of a copy of this order.

13. The appellant/claimant shall be entitled to withdraw the entire amount on such deposit by the second respondent on due application.

Accordingly, this Civil Miscellaneous Appeal is partly allowed.

No costs.

16.03.2023

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To
The Motor Vehicle Accident Claims Tribunal/
Ranipet, Vellore District (Sub Court,
Ranipet, Vellore District).



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CMA.No.2539 of 2019

A.A.NAKKIRAN, J.

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CMA.No.2539 of 2019

16.03.2023