



C.M.A.No.2363 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2023

CORAM

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

C.M.A.No.2363 of 2018

and CMP.No.17996 of 2018

Sabapathy

..Appellant

Vs.

1.Arikrishnan
2.The Branch Manager,
United India Insurance Co.Ltd.,
Nehru Street,
Pondicherry.

..Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree dated 20.12.2017 made in MCOP.No.493 of 2013 on the file of the Motor Accident Claims Tribunal (Principal Subordinate Judge, Puducherry)

For Appellant : Mr.R.Sreedhar

For Respondents : Mr.P.Sankaranarayanan for R2

Set exparte - R1



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J U D G M E N T

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This appeal has been filed by the appellant/claimant to set aside the impugned award dated 20.12.2017 passed in MCOP.No.493 of 2013 on the file of the Motor Accident Claims Tribunal (Principal Subordinate Judge, Puducherry).

2. The brief facts of the case are as follows:

The appellant had filed the above claim petition seeking a compensation of sum of Rs.8,00,000/- for the injuries sustained by him in a road accident on 15.04.2013. It is the case of the appellant that on the said date, at about 09.00 p.m., when the claimant was riding his motorcycle bearing Regn.No.PY-01-BU-3970 along the Puducherry Vazhuthavur Salai, opposite to Thilagar Nagar, Navasakthi Mariamman Koil, when he was proceeding towards East to West direction, the lorry bearing Regn.No.TN-51-1719, came in a opposite direction, hit the appellant's motor cycle, due to which, the appellant was thrown away



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and sustained severe left leg bone fracture and over his hip and multiple injuries all over the body. Immediately, he was admitted in the Government Hospital, Kadirkamam and later he was taken to the General Hospital, Puducherry. For further treatment, he was admitted in PIMS, Puducherry and till date he is taking treatment. Due to the injuries sustained by him, he claimed a petition before the Tribunal claiming compensation of Rs.8,00,000/-.

3. The learned counsel for the appellant has submitted that the Tribunal erred in fixed the compensation at Rs.82,200/-. It has failed to consider the nature of injuries sustained by the appellant wherein the fractures are left iliac fracture with sacroiliac joint disruption, Bilateral superior and inferior public rami fracture and Mid 3rd shaft left fibula fracture and fracture at right acetabulum undisplaced. He further submitted that the Tribunal ought to have fixed the disability at 50%. He further submitted that the Tribunal had erred in not adopting multi



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method for the disability sustained by the appellant. The Tribunal has awarded the amounts of Rs.30,000/-, Rs.5,000/-, Rs.5000/- towards Pain and sufferings, Transport Expenses and Attender Charges respectively which is on the lower side. Hence, he prays for enhancement of the award by allowing this appeal.

4. The learned counsel for the second respondent has submitted that the Tribunal has awarded the compensation which is just and reasonable and hence the same does not require any interference in the hands of this Court.

5. The Tribunal, based on the oral and documentary evidences, has awarded a sum of Rs.82,200/- as total compensation payable by the second respondent to the claimant with interest and costs under the following heads:



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Heads	Award Amount (Rs.)
Pain and Sufferings	30,000/-
Medical Expenses,	7,200/-
Rich & Nutritious food	5000/-
Transport Expenses	5000/-
Attender Charges	5,000/-
Permanent Disability	30,000/-
Total	Rs.82,200/-

6. Heard the learned counsel for the appellant and the learned counsel for the second respondent. Perused the materials available on record.

7. On perusal of the Ex.P8/Office Order dated 27.04.2013, it is seen that the appellant was working as a male nurse and was earning about Rs.30,000/- per month at the time of accident. But no amount has been granted under the head of loss of amenities/income. The Tribunal has not awarded any amount towards 'future medical expenses' though

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he had proved that he had taken treatment as out-patient. Due to the grievous injuries, suffered by the appellant, he is in need of more extra nourishment. Further, it is disputed that the claimant had taken treatment for quite some time as out-patient also and during that time, the claimant had incurred attendant and future medical expenses. But the amount awarded under the heads of 'Extra Nourishment', 'Pain and Sufferings', 'Transport expenses', 'Attender Charges', seems to be very meagre. Hence, the award of the Tribunal needs significant enhancement.

8. A perusal of the judgment of the Tribunal would go to show that it has taken into consideration the documents, viz, Ex.X1/Certificate issued by Medical Board for the disability of the claimant and Ex.P7/Discharge summary; and has awarded Rs.30,000/- towards pain and sufferings by taking into account Rs.3000/- for each percentage of disability, which in the opinion of this Court, is based on evidence on record and hence the said sum awarded under this head is confirmed as



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such.

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9. However, considering the nature of the injuries sustained by the Appellant/claimant, this Court is of the opinion that it would be appropriate to fix Rs.40,000/- towards pain and sufferings; Rs.10,000/- towards Extra Nourishment; Rs.10,000/- towards Transport; Rs.10,000/- towards Attender charges; Rs.10,000/- towards loss of amenities and Rs.15,000/- towards 'Future Medical Expenses'. However, in view of the above said modification, the compensation is enhanced to Rs.1,25,000/- by this Court instead of Rs.82,200/- assessed by the Tribunal.

10. Thus, the break-up details of the modified compensation are as follows:

Heads	Amount (Rs.)
Permanent Disability	30,000
Pain and suffering	40,000

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Future Medical expenses	15,000
Extra Nourishment	10,000
Transport Expenses	10,000
Attender Charges	10,000
Loss of Amenities	10,000
Total	Rs.1,25,000/-

11. In the result,

(i) the Civil Miscellaneous Appeal is partly allowed.

Consequently, the connected miscellaneous petition is closed. No costs.

(ii) The total compensation of award amount is enhanced from Rs.82,200/- to **Rs.1,25,000/-**, which is payable with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. It is made clear that for the enhanced amount of Rs.42,800/-, the interest rate of 7.5% shall be calculated from the date of filing of this appeal. Since

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the compensation amount now awarded is Rs.1,25,000/-, it is made clear that the claimant has to pay the appropriate Court fee in order to receive the enhanced award amount.

(iii) The second respondent/Insurance Company shall deposit the enhanced compensation amount, as awarded by this Court, less the amount already deposited if any, within a period of six weeks 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 along with accrued interest as per the order of this Court to the appellant/claimant through RTGS within a period of two weeks thereafter.

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A.A.NAKKIRAN.,J.

gv

To

1. The Motor Accident Claims Tribunal
(Principal Subordinate Judge, Puducherry).
- .
2. The Section Officer,
V.R.Section,
High Court, Madras.

C.M.A.No.2363 of 2018

and

CMP.No.17996 of 2018

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