



C.M.A.No.1921 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2023

CORAM

THE HON'BLE **MR.JUSTICE A.A.NAKKIRAN**

C.M.A.No.1921 of 2019

Karpakam

... Appellant

vs.

1.Srinivasan
2.United India Insurance Co., Ltd., Limited
J.N.Street, Pondicherry.

3.S.Panneerselvam
4.The Manager,
M/s.Shriram General Insurance Co., Ltd.,
No.66, 2nd Floor, City Centre Complex,
Thirumalaipillai Road,
Chennai, Tamil Nadu.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree made in M.C.O.P.No.604 of 2013 dated 29.04.2016 on the file of the Additional Motor Accident Claims Tribunal, Pondicherry.



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For Appellant : Mr.G.Ramar
for M/s.T.Ananthasekar

For R2 : Mr.M.J.Vijayaraghavan

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the impugned Judgment and Decree dated 29.04.2016 passed by the Motor Accident Claims Tribunal, Additional Motor Accident Claims Tribunal, Pondicherry in M.C.O.P.No.604 of 2013.

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.1,19,000/- together with interest at 7.5% per annum from the date of filing of the claim petition till the date of deposit, to the appellant/claimant. Aggrieved by the same, the present Civil Miscellaneous Appeal has been filed by the appellant/claimant for enhancement of compensation.

3. According to the appellant/claimant, on 18.07.2013, at about 10.45 a.m., while appellant/claimant was travelling as passenger by



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sitting right side of the back seat nearby window in the bus bearing Reg.No.PY.01-AL-4000, belonging to the first respondent, at that time, the driver of the bus at high speed in a rash and negligent manner and turned the bus towards left side and immediately turned to right side due to which, the appellant/claimant had sustained grievous injuries. Therefore, he filed a claim petition in M.C.O.P.No.604 of 2013 before the Motor Accidents Claims Tribunal, Additional Motor Accident Claims Tribunal, Pondicherry, claiming a compensation of Rs.7,00,000/- for the injuries sustained in the accident.

4. The second respondent - Insurance Company resisted the claims made by the appellant/claimant in all aspects by filing counter.

5. However, after analyzing the materials and evidence available on records, the Tribunal found that the accident occurred only due to rash and negligent act of the driver of the bus and fastened the liability on the second respondent insurance company. The Tribunal has awarded a total sum of Rs.1,19,000/- as compensation with interest at the rate of 7.5% per annum, to the claimant.



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6. Being not satisfied with the compensation awarded by the Tribunal, the claimant has before this Court by way of this appeal.

7. Learned counsel for the appellant/claimant submitted that the claimant was selling fish and thereby, earning Rs.500/- per day, but due to the accident she suffered loss of income. Hence, the compensation ought to have been enhanced under this head. He has further pointed out that the claimant had sustained fracture both bones right forearm, ORIF with IM nailing for radius and ulna right forearm on 24.07.2013 and the Doctor has assessed 45% disability. But the Tribunal has awarded only a sum of Rs.84,000/- under this head, which is on the lower side. Learned counsel for the appellant/claimant would further contend that the amounts awarded by the tribunal under the other heads are also on the lower side and hence, they have to be enhanced.

8. Resisting the same, the learned counsel for the second respondent insurance company submitted that the compensation awarded by the tribunal is just and it does not warrant any interference.



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9. Heard both sides and perused the materials available on record.

10. Taking note of the nature of the injury sustained by the appellant/claimant, the Tribunal has awarded a sum of Rs.10,000/- towards loss of income and the same is hereby enhanced to Rs.15,000/-. The Tribunal has not granted any amount towards attender charges' and this Court awards a sum of sum of Rs.10,000/- towards attender charges.

11. That apart, the tribunal awarded a sum of Rs.5,000/- towards extra nourishment, and Rs.10,000/- towards pain and sufferings, which sums appear on the lower side. Therefore, the amount awarded under those heads are hereby enhanced to Rs.10,000/- and Rs.15,000/- respectively.

12. Under these circumstances, the compensation under the heads awarded by the Tribunal is enhanced and modified as follows:-



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Sl. No	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced
1	Pain and sufferings	10,000	15,000	Enhanced
2	Medical Expenses	5,000	5,000	Confirmed
3	Loss of income	10,000/-	15,000	Enhanced
4	Extra nourishment	5,000	10,000	Enhanced
5	Attender charges	-	10,000/-	Granted
5	Transport expenses	5,000	5,000	Confirmed
6	Permanent disability	84,000	84,000	Confirmed
Total		Rs.1,19,000	Rs.1,44,000	Enhanced

13. Therefore, the 2nd respondent Insurance Company is directed to deposit the enhanced amount of compensation of Rs.25,000/- (Rs.1,44,000/- – Rs.1,19,000/-) and balance amount of compensation and cost awarded by the Tribunal, if any, together with interest at 7.5% per annum from the date of filing of the claim petition till the date of deposit (except the default period, if any) and proportionate costs as was awarded by the Tribunal, less any amount already deposited, within a period of six weeks from the date of receipt of a copy of this Judgment.



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14. On such deposit being made by the 2nd respondent Insurance Company, the appellant is permitted to withdraw the same together with interest by filing suitable application before the Tribunal.

15. Accordingly, this Civil Miscellaneous Appeal stands partly allowed. No costs.

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Index : Yes / No

Internet : Yes / No

kkd

To:

The Presiding Officer,
Additional Motor Accident Claims Tribunal,
Pondicherry.



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A.A.NAKKIRAN,J.

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