



C.M.A.No.4483 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2023

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.4483 of 2019

Babu

... Appellant

Vs

1. Karuppusamy

2.Chitra Balasubramaniam

(Notice to R1 and R2 may be dispensed with
for the time being-verified petition filed)

3. National Insurance Company Limited,
Rep by its Manager, Karthikeya Complex,
Mettur Main Road, Bhavani, Erode District.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, as against the made in M.C.O.P.No.408 of 2011 on the file of the Motor Accident Claims Tribunal Cum IV. Additional District Judge, Erode District at Bhavani dated 23.4.2013.



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For Appellant ... M/s.C.Kulanthaivel

For Respondents ... Notice dispensed with vide
order dated 10.04.2023 for R1 & R2

Mr.S.Arun Kumar for R3

JUDGEMENT

Aggrieved by impugned award passed by the Motor Accident Claims Tribunal Cum IV. Additional District Judge, Erode District at Bhavani in M.C.O.P.No.No.408 of 2011 wherein the Tribunal had awarded lower compensation, the present appeal has been filed by the claimant/appellant seeking enhancement of compensation.

2. On 01.08.2011, when the claimant was riding his Hero Honda motor cycle bearing Reg.No.TN30-P-6760 from Veppadai to Komarapalayam main road, Elanthakuttai Pirivu near Palaya Muniappan Kovil towards east to west with observing traffic rules and regulations in the extreme left side of the road, the lorry bearing Regn. No.TN-33-AW-7949 belonging to the 2nd respondent, driven by the 1st respondent in a rash and negligent manner, dashed against the motor cycle driven by the injured claimant due to which, the claimant suffered



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grievous injuries resulting in fracture over the right leg, fracture and switched wound over the head, cotusion over the hip, neck and the claimant was admitted at the Government Hospital, Erode, Trust Hospital. Therefore, the claimant has filed a petition claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by him under various heads before the Motor Accidents Claims Tribunal, Erode.

3. Before the Tribunal, the claimant examined himself as P.W.1 and marked Ex.P.1 to Ex.P.14. 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 a sum of Rs.1,63,000/- as compensation to the claimant. Aggrieved by the quantum of compensation awarded by the Tribunal, the appellant/claimant is before this Court seeking enhancement of compensation.

4. Learned counsel appearing for the claimant 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.2, had clearly



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deposed about the injuries suffered by the claimant, the compensation awarded by the Tribunal is grossly inadequate. When P.W.2 has clearly deposed about the disability suffered by the claimant, the amount of Rs.2000/- 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 3rd 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 dismissal of the appeal.

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.2, the doctor, who has deposed that the claimant had suffered 50% partial and permanent disability. The Tribunal, by adopting Rs.2000/- per percentage of disability has awarded a sum of Rs.80,000/- by fixing the disability at 40%. The doctor had opined that the injury suffered by the claimant would result in the claimant not able to perform strenuous work. Though the doctor had quantified the disability at 50%, however, considering the injuries, the Tribunal had fixed the disability at 40% and awarded a sum of Rs.2000/- which does not require any interference.

8. Further, the Tribunal had awarded a sum of Rs.2,000/- towards transportation, Rs.5,000/- towards extra nourishment; Rs.66,000/- towards future medical expenses; Rs.10,000/- towards pain and sufferings and Rs.80,000/- towards loss of disability. This Court finds that the compensation awarded under the heads transportation, nourishment and future medical



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expenses are just and reasonable and does not require any interference.

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9. Further, the claimant was under treatment for a period of about three months, during which time the claimant would not have earned the income, which is purely on account of the accident. It is the case of the claimant that he was earning a sum of Rs.10,000/- per month and, therefore, the loss suffered by him from the said earning for about three months is quantified at Rs.30,000/- and this Court awards a sum of Rs.30,000/- under the head 'Loss of Income during the Treatment'.

10. 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
Transportation to Hospital	Rs.2,000/-	Rs.2,000/-
Extra Nourishment	Rs.5,000/-	Rs.5,000/-
Medical Expenditure	Rs.66,000/-	Rs.66,000/-
Pain and Suffering	Rs.10,000/-	Rs.10,000/-



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Loss of income during the treatment period	-	Rs.30,000/-
Loss of future amenities for disability	Rs.80,000/-	Rs.80,000/-
TOTAL	Rs.1,63,000/-	Rs.1,93,000/-

11. The appeal is partly allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from Rs.1,63,000/- to Rs.1,93,000/-. The third respondent-Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.408 of 2011 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 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. However, it is made clear that the appellant is not entitled for any interest for the default period.



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Index : Yes / No

Speaking Order / Non-speaking order

Neutral Citation Case : Yes / No

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To

- 1.The Motor Accident Claims Tribunal Cum
IV. Additional District Judge,
Erode District.
- 2.The Section Officer,
V.R. Section,
High Court, Madras.



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M.DHANDAPANI, J

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