



C.M.A.No.1399 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2023

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.M.A.No.1399 of 2019

Ramesh

... Appellant

-VS-

1.D.Arul Jothi

2.The Divisional Manager,
United India Insurance Co., Ltd.,
Pondicherry.

... Respondents

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award dated 16.12.2010 made in M.C.T.O.P.No.1211 of 2006 on the file of Motor Accident Claims Tribunal, II Additional District Judge, Pondicherry.

For Appellant : M/s.S.Menaka
For Mr.V.Rannagandhi

For Respondent
(For R2) : Mr.P.Sankaranarayanan

(For R1) : Refused

J U D G M E N T

This appeal has been filed by the appellant/claimant seeking



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enhancement of the compensation in the Award dated 16.12.2010 made in

M.C.T.O.P.No.1211 of 2006 on the file of Motor Accident Claims Tribunal, II

Additional District Judge, Pondicherry.

2. It is the case of the appellant/claimant that on 20.05.2005 at about 9.00 p.m. The appellant was proceeding in his motorcycle bearing Reg. No.PY 01 S 4422 , at the time, a motorcycle bearing reg. No.PY 01 Y 3766 came from the opposite direction, driver by first respondent, in a rash and negligent manner, hit against the appellant. Due to the accident, the appellant sustained grievous injuries and admitted in a hospital for treatment. Thereafter, the appellant has filed a claim petition before the Tribunal, claiming a sum of Rs.52,25,000/- as compensation.

3. Before the Tribunal, during trial, in order to prove his case, on the side of the appellant, two witnesses was examined and marked as many as 25 documents viz., Exs.P1 to P25. On the side of the respondents, one witness was examined and no document was adduced.

4. After analyzing the oral and documentary evidences and considering the pleadings made by both the parties, the Tribunal has come to the conclusion



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that the accident had taken place due to the rash and negligent driving of the driver of the Auto. Therefore, the Tribunal has awarded a sum of Rs.3,67,000/- as compensation payable by the respondents.

5. Not being satisfied with the quantum of compensation awarded by the Tribunal, the appellant has come forward with this appeal before this Court.

6. Learned counsel for the appellant submitted that the Doctor, who treated the appellant, has assessed the disability at 80% as permanent disability and the Tribunal failed to properly consider the nature of the injuries, awarded only a sum of Rs.70,000/- towards disability, which is very meager. The Tribunal ought to have been considered and awarded the proper and reasonable compensation under the heads of pain and suffering, transportation, loss of income during treatment period and attender charges. Hence, the learned counsel for the appellant prays for enhancement of compensation.

7. Per contra, the learned counsel appearing for the second respondent /Insurance Company submitted that the respondent has denied all the averments made by the appellant in the claim petition and filed a counter to that effect. The Tribunal has awarded compensation in favour of the appellant is highly



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excessive and there is no basis for awarding such compensation. Hence, the learned counsel prays to dismiss the appeal.

8. Heard the learned counsel for the appellant as well as the respondents and also perused the available materials on record before this Court.

9. From the materials on record, it seen that the Doctor has assessed 80% disability to the appellant for injuries sustained and the Tribunal has modified the same at 70% and awarded Rs.1000/- per percentage. The accident had happened in the year 2005. This Court is not inclined to modify the same, In respect of pain and sufferings is concerned, the Tribunal has fixed a sum of Rs.5,000/- and this Court is inclined to increase the amount from 25,000/- which the appellant is entitled for. Further the appellant is entitled for transportation, attender charges and loss of income during treatment period. Accordingly, this Court awarded a sum of Rs.5000, 5000 and 30,000/- (10,000 X 3 months) respectively. The other award passed by the Tribunal is correct and the same does not warrant any interference. The compensation awarded by the Tribunal is modified as follows:

Sl.No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)
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1	For disability	70,000	70,000
2	Pain and sufferings	5,000	25,000
3	Medical expenses	2,77,000	2,77,000
4	Transportation	2,000	5,000
5	Extra nutrition	2,000	2,000
6	Damages to clothes	1000	1000
7.	Loss of income during treatment	10,000	30,000
8	Attender charges		5000
	Total	3,67,000	4,15,000

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal is hereby enhanced to **Rs.4,15,000/-**, with interest at the rate of 7.5% per annum from the date of petition till the date of realization. The second respondent is directed to deposit the enhanced award amount with interest, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the enhanced award amount, along with interest and costs, less the amount if any, already withdrawn. No costs.

02.11.2023

Rli

Index: Yes/No

NCS : Yes/No



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To

The Motor Accident Claims Tribunal,
II Additional District Judge, Pondicherry.

M.DHANDAPANI, J.

Rli

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