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CMA.No.2217 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

Civil Miscellaneous Appeal No.2217 of 2019

Suresh Kumar

... Petitioner/Appellant

-Vs-

1. Navajothi,
No.3/30, Siva Sakthi Nagar,
C- Sector, Avadi,
Chennai – 600 109.

(R1 remained exparte before the Tribunal, hence his presence may be dispensed with).

2. United India Insurance Company Limited,
No.38, Anna Salai,
Chennai – 600 002.
Branch Office No.23/81,
Nainiappan Naicken Street,
Chennai – 600 003.

... Respondents

Prayer : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 to enhance the award dated 02.04.2016 made in M.A.C.T.O.P.No.1813/2006 on the file of the Motor Accident Claims Tribunal V Court of Small Causes, Chennai.

For Appellant : Ms.M.Malar

For Respondents : Mr.R.Rathna Thara [R2]



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JUDGMENT

WEB COPY This Civil Miscellaneous Appeal has been filed to enhance the award made in M.A.C.T.O.P.No.1813 of 2006 dated 02.04.2016 on the file of the Motor Accident Claims Tribunal V Court of Small Causes, Chennai.

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

3. It is a case of the appellant/claimant that on 05.01.2006 at about 10.10 hours, when the appellant/claimant and one deceased Ravi @ Tamilvanan were travelling in a TVS Suzuki Motor Cycle bearing Reg.No.TN-22-W-1536 as rider and pillion rider at Ennore High Way, a container lorry bearing Reg.No.T S B 1497 came in a rash and negligent manner and dashed against the Motor Cycle. As a result of which, the deceased Ravi @ Tamilvanan sustained fatal injuries and died on the way to Hospital and the appellant/claimant Suresh Kumar sustained multiple injuries. Hence, the appellant/claimant claimed compensation for a sum of Rs.6,00,000/-, however, the Tribunal has awarded only a sum of Rs. Rs.1,39,500/-. Therefore, in order to enhance the



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compensation awarded by the Tribunal, the appellant/claimant has chosen to file this Civil Miscellaneous Appeal.

4. Before the Tribunal, on behalf of the claimant, the claimant, Elumalai and a doctor were examined and six exhibits were marked. On behalf of the second respondent, Mr.Sugumar, Administrative Officer of the second respondent company was examined and five exhibits were marked.

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

(a)Transportation and Extra Nourishment	:	Rs. 10,000/-
(b)Attender Charges	:	Rs. 4,000/-
(c)Medical Bills	:	Rs. 30,485/-
(d)Disability	:	Rs. 45,000/-
(e)Loss of earning during the period of treatment	:	Rs. 10,000/-
(f)Damages for pain and suffering and trauma	:	Rs. 20,000/-
(g)Loss of amenities	:	Rs. 20,000/-

		Rs. 1,39,485/-

The said sum was rounded off to Rs.1,39,500/- and directed to be paid by the second respondent along with interest at 7.5% per annum from the



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date of petition till the date of deposit of the award amount.

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6. Learned counsel for the appellant/claimant submits that the Tribunal has failed to consider the injuries sustained by him. The appellant/claimant has sustained injuries like fracture of teeth, right frontal region, right forearm and head right chin right big toe and multiple grievous injuries all over the body. Though the Doctor had assessed the disability at 40%, the Tribunal erred in fixing the disability at 15%. Learned counsel further submits that the award under the heads is 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 award of Rs.10,000/- towards



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Transportation and Extra Nourishment needs to be enhanced and the same is enhanced to Rs.15,000/-. Similarly the award of Rs.10,000/- towards loss of earning during the period of treatment is on the lower side and the same is enhanced to Rs.15,000/-. 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.	Transportation and Extra Nourishment	Rs. 10,000/-	Rs. 15,000/-	Enhanced
2.	Attender Charges	Rs. 4,000/-	Rs. 4,000/-	Confirmed
3.	Medical Bills	Rs. 30,485/-	Rs. 30,485/-	Confirmed
4.	Disability	Rs. 45,000/-	Rs. 45,000/-	Confirmed
5.	Loss of earning during the period of treatment	Rs. 10,000/-	Rs. 15,000/-	Enhanced
6.	Damages for pain, suffering and trauma	Rs. 20,000/-	Rs. 20,000/-	Confirmed
7.	Loss of amenities	Rs. 20,000/-	Rs. 20,000/-	Confirmed
	Total	Rs. 1,39,485/-	Rs. 1,49,485/-	

11. Accordingly, the amount awarded by the Tribunal is enhanced from Rs.1,39,500/- to Rs.1,49,485/- together with interest at 7.5% per annum from the date of petition till date of deposit.



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12. The second respondent/ Insurance Company is directed to deposit the entire amount i.e., Rs.1,49,485/- together with interest at 7.5% per annum, less the amount already deposited, if any, from the date of petition till the date of deposit to the credit of MCOP.No.1813 of 2006 on the file of the Motor Accident Claims Tribunal, Chennai District (V Court of Small Causes, Chennai) 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.

20.03.2023

mp

To
The Motor Accident Claims Tribunal/
V Court of Small Causes, Chennai.



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A.A.NAKKIRAN, J.

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