



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.11.2023

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1620 of 2019

The Manager,
United India Insurance Co. Ltd.,
(T.P. Hub) Vellore Division Office,
No.81, TKM Complex, 2nd Floor,
Katpadi Road, Vellore.

... Appellant

Vs

1. V.Jagadesh

2. C.Selvakumar

... Respondents

Civil Miscellaneous Appeal filed under Article 173 of Motor Vehicles Act 1988, against the Judgment and decree dated 20.04.2016 in MACTOP. No.191 of 2014 passed by the Motor Accidents Claims Tribunal/Subordinate Judge, Tiruttani.

For Appellant : Mrs.R.Shree vidhya

For Respondents : Mr.K.R.Ponnusamy

For M/s.Anand & Surya R1

R2 – Died

J U D G M E N T

This appeal has been filed by the appellant/claimant seeking enhancement of the compensation dated 20.04.2016 in MACTOP.



No.191 of 2014 passed by the Motor Accidents Claims Tribunal/Subordinate Judge, Tiruttani.

2. It is the case of the claimant that on 25.08.2012 by 01.11 p.m. When the appellant and other two persons were travelling as a passengers in Auto bearing Reg. No.AP 03 W 9257, at that time, a Tata Sumo bearing Reg. No.TN 47 D 1566 was coming on the opposite direction, driven by its driver in a rash and negligent manner, hit the auto, due to which, the claimant/first respondent and others sustained multiple injuries all over his body. Thereafter, the claimant was admitted in the hospital for treatment. Thereafter, the claimant has filed a claim petition before the Tribunal claiming a sum of Rs.5,00,000/- as compensation.

3. Before the Tribunal, during trial, in order to prove his case, the claimant has examined as P.W.1 to P.W.4 and marked as many as sixteen documents viz., Exs.P1 to P16. On the side of the insurance company, no 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



awarded a sum of Rs.2,75,000/- as compensation to the claimant.

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5. Questioning the quantum of compensation awarded by the Tribunal, the appellant/insurance company has come forward with this appeal before this Court.

6. The learned counsel appearing for the appellant / Insurance Company would submit that the first respondent is a minor at the time of the accident and the Doctor who has not treated the claimant, has assessed the disability at 45% and the Tribunal has awarded a sum i at the time of accident. The Tribunal has awarded a sum of Rs.2,25,000/- is highly excessive and the same has to be reduced. The learned counsel has not raised objection in respect of other heads.

7. The learned counsel for the first respondent would submit that the award amount passed by the Tribunal is very meager and the same has been passed without considering the injuries sustained by the appellant. The Tribunal has awarded very meagre amount towards pain and sufferings. Hence, the learned counsel for the appellant prays for enhancement of compensation.



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

9. The appellant is the insurance company and the first respondent is the claimant. Admittedly, the first respondent is the minor at the time of the accident and he was not working anywhere at the time of the accident.

10. On a perusal of the medical report, it is found that the Doctor, who has not treated the injured, assessed the disability at 45%. However, without considering the same, the Tribunal has awarded a sum of Rs.2,25,000/- towards disability, which is not sustainable. Considering the injuries sustained by the first respondent and considering his age, this Court fixed the disability at 40% and a sum of Rs.3000/- is awarded for per percentage. Regarding the other heads viz., extra nourishment, transportation and pain and sufferings respectively, are reasonable and there is no need to interfere with it.



11. The award amount of compensation is modified under the following heads :-

Sl.No	Heads	Amount awarded by the Trial Court (Rs.)	Amount awarded by this Court (Rs.)
1	Disability	2,25,000	1,20,000 (40% X Rs.3000)
2	Transportation	10,000	10,000
3	Extra nourishment	10,000	10,000
4	Pain and Sufferings	30,000	30,000
	Total	2,75,000	1,70,000/-

12. With the above modification, the order of Tribunal in MACTOP No.191/2014 is modified and this appeal is partly allowed.

13. The Compensation amount of Rs.2,75,000/- is modified to **Rs.1,70,000/-** with interest at the rate of 7.5% per annum from the date of petition till the date of realization. The appellant -Insurance Company is directed to deposit the entire award amount as ordered by this Court with interest, after deducting the amount if any already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the first respondent / claimant is permitted to withdraw the same, on making proper application before the Tribunal. No costs.



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Index : Yes/no

Internet : Yes/no

Speaking Order/Non speaking order

To

The Motor Accidents Claims Tribunal/Subordinate Judge,

Tiruttani.



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M.DHANDAPANI.,J.

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