



C.M.A.No.3127 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.03.2023

PRONOUNCED ON : 12.04.2023

CORAM:

THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

C.M.A.No.3127 of 2019

Karuppaiya

... Appellant

vs.

1.R.Balasubramaniam

2.M/s.Reliance General Insurance Company Ltd.,

Sri Lakshmi Complex,

1st Floor, Bharathiar Street,

Omalur Main Road,

Swarnapuri, Salem-636 004.

... Respondents

(1st Respondent remained exparte).

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, for enhancement of compensation in the Judgment and Decree dated 19.11.2013 made in M.C.O.P.No.65 of 2012 on the file of Learned Subordinate Judge / Motor Accident Claims Tribunal, Namakkal.

For Appellant : Mr.S.Sankar

for M/s.C.Thangaraja

For Respondents : Mr.E.Rajadurai

for M/s.M.B.Gopalan Associates

for R2 in C.M.A. SR stage



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JUDGMENT

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The appellant herein has preferred this appeal against the judgment and decree passed in M.C.O.P.No.65 of 2012 on the file of Learned Subordinate Judge / Motor Accident Claims Tribunal, Namakkal, on 19.11.2013.

2. The claim petition was filed under Section 166 read with Rule (3) of Motor Vehicles Act for the injuries sustained in the accident that had taken place on 07.11.2011, claiming compensation of Rs.10,00,000/-.

3. The Tribunal has passed an award for an amount of Rs.3,23,399/- with interest at the rate of 7.5% p.a., from the date of filing of petition till its realisation with costs.

4. The learned counsel for the appellant would argue that the appellant who sustained head injury on account of the accident was admitted in the Hospital as an inpatient for 33 days. He was 54 years at the relevant point of time and he owned a brick kiln. The Tribunal has fixed his income at Rs.4,500/- is very meagre and prayed for enhancement of the same.



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5. Seriously disputing the above said details, the learned counsel for the Insurance Company would vehemently contend that no surgery was performed on the injured, but, the disability assessed by PW2-Doctor at 42% is on the higher side.

6. Heard the rival contentions put forth by both sides and perused the entire material records.

7. The manner in which the accident had taken place is not in dispute.

8. As per Ex.P3-Discharge Summary, it could be seen that the injured sustained lacerated injury over scalp. CT-scan for brain was taken for the injured and it is discernible that the injured suffered Sub dural haemorrhage in right fronto-parieto-temporal region-sub-arachnoid haemorrhage along the sulcal spaces of right parietal cortex, small sized contusion haemorrhage in right frontal and temporal cortex. It appears that the injured was treated as an inpatient for 33 days from 07.11.2011 to 10.12.2011. The Doctor who was examined as PW2 has also stated that CT-Scan Brain was taken for the injured on 25.09.2013. He would further



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state that due to the head injuries sustained in the brain, he was suffering from head-ache, giddiness, loss of memory, loss of sleep and lacking concentration in work etc. It is not in dispute that he was treated only with the medicines. The injured at the age of 54 years, was said to be working in the brick kiln, though the injury sustained was haemorrhage and contusion, it would be difficult for the person who sustained such injuries to do physical labour like carrying the bricks on the head and doing labour work for the whole day etc. Considering the age and nature of work done by the injured, it would be reasonable to award an amount of Rs.50,000/- instead of Rs.25,000/- as awarded by the Tribunal for the effects of head injury.

9. As regards the monthly income of the injured, he was stated to be working as worker in the brick kiln. The Tribunal has fixed his income as Rs.4,500/- p.m. It is profitable to refer to the observations of the Hon'ble Supreme Court made in **Syed Sadiq v. United India Insurance Company Ltd.**, reported in **2014 (1) TN MAC 459 (SC)**, wherein the Hon'ble Supreme Court has held that the claimant was 24 years at the time of accident, who was vending vegetables and the income of the injured was fixed as Rs.6,500/- p.m., for the accident occurred in the year 2008. Therefore, considering the age and nature of work of the injured it is



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reasonable to fix the income of the appellant/claimant at Rs.7,000/- p.m.

The Tribunal has granted an amount of Rs.13,500/- (Rs.4,500/- p.m., X 3 months) for loss of income during treatment period. In addition to that an amount of Rs.14,000/- (Rs.7,000/- p.m., X 2 months) is granted for the same.

10. Towards remaining heads, the amounts awarded by the Tribunal appears to be reasonable. Therefore, it need not be interfered with. Therefore, the Compensation awarded by the Tribunal is reworked as tabulated below:

Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For the effects of head injury.	Rs. 25,000/-	Rs. 50,000/-	Enhanced
2	Loss of income for 3 months	Rs. 13,500/-	Rs. 21,000/-	Enhanced
3	Loss of income for additional 2 more months	NIL	Rs. 14,000/-	Granted
4	Medical Bills	Rs.2,49,839/-	Rs.2,49,839/-	Confirmed
5	Transport Charges	Rs. 5,000/-	Rs. 5,000/-	Confirmed
6	Pain and Sufferings	Rs. 25,000/-	Rs. 25,000/-	Confirmed
7	Extra Nourishment	Rs. 5,000/-	Rs. 5,000/-	Confirmed
	Total	Rs.3,23,399/-	Rs.3,69,839/-	



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11. Thus, the compensation awarded by the Tribunal is enhanced from Rs.3,23,399/- to **Rs.3,69,839/-** which would carry interest at the rate of 7.5% per annum from the date of petition till the date of realisation.

12. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.3,23,399/- to **Rs.3,69,839/-**.

(iii) The 2nd respondent / Insurance Company is directed to deposit the enhanced compensation amount i.e., **Rs.3,69,839/-** (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit [excluding the period of default, if any] to the credit of M.C.O.P.No.65 of 2012 on the file of the learned Subordinate Judge / Motor Accident Claims Tribunal, Namakkal, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the appellant / claimant is at liberty to withdraw the same as per the Orders passed by the Tribunal after following due process of law. The claimant is directed to pay the Court fee for the enhanced compensation amount, if required. The Tribunal below



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shall disburse the enhanced amount upon production of the certified copy
showing proof of payment of Court fee by the claimant.

12.04.2023

Index : Yes/No
Speaking / Non-speaking order
ssn

To:

1. The Motor Accident Claims Tribunal,
Subordinate Judge, Namakkal.



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2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.



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R.KALAIMATHI, J.,

ssn

Pre-delivery Judgment in

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