



C.M.A.No.4383 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2023

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.4383 of 2019

Govindaraj

... Appellant

Vs.

1.M/s.Ahmedabad Begal Roadways Pvt., Ltd.,
VIII Rojika Mew Industries Area,
Nuh Mewat, Hariyana – 122 107.

2.Shriram General Insurance Co., Ltd.,
101023-202-2023, Suneja Tower-1,
District Centre, Janakpuri,
New Delhi – 110 058.

3.D.N.C.Maivannan

4.United India Insurance Co., Ltd.,
R.P.R Complex,
Bypass Road,
Near Govt. Hospital,
Dharmapuri – 636 701.

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against Judgment and Decree dated 23.03.2016 passed in M.C.O.P.No.1504 of 2014 on the file of the Motor Accident Claim Tribunal (Special District Judge), Dharmapuri.



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For Appellant : Mr.C.Munnusamy

For Respondents

For R1 : Ex-parte

For R2 : Mr.K.Poomalai

For R3 & R4 : Given up vide EP

J U D G M E N T

The Appeal has been filed against the Judgment and Decree dated 23.03.2016 made in M.C.O.P.No. 1504 of 2014 on the file of the Motor Accident Claims Tribunal (Special District Judge), Dharmapuri.

2. The claim Petitioner is the appellant herein seeking compensation for the injuries sustained by him in a road traffic accident occurred on 20.10.2011. The Tribunal has awarded a sum of Rs.5,63,750/- with interest at the rate of 7.5% per annum from the date of numbering of the MCOP Petition till the date of deposit and costs. Aggrieved by the same and seeking enhancement, he has preferred this Appeal.



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3. The factum of the accident, manner of the accident are not under challenge in this Appeal. Accordingly, the findings rendered by the trial Court in this regard are hereby confirmed.

4. During the trial, on the side of the claim Petitioners, P.W.1 to P.W.4 were examined & Ex.P.1 to Ex.P.23 were marked and on the side of the Respondents, R.W.1 was examined and no document was marked.

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

<i>Sl.Nos.</i>	<i>Heads</i>	<i>Compensation</i>
1.	Loss of Disability	Rs.1,50,000/-
2.	Medical expenses	Rs.1,73,750/-
3.	Pain and suffering	Rs.1,00,000/-
4.	Nutrition	Rs.25,000/-
5.	Transportation	Rs.25,000/-
6.	Loss of estate	Rs.50,000/-
7.	Attender Charges	Rs.10,000/-
8.	Loss of income	Rs.30,000/-
<i>Total</i>		Rs.5,63,750/-



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The said sum was directed to be paid by the respondent along with interest at 7.5% per annum from the date of petition till the date of realization.

6. Learned counsel for the appellants/claimants submitted that the Tribunal erred in awarding compensation without considering that the appellant sustained multiple fractures over right hand, right leg and serious head injury besides other severe injuries and he has taken treatment for months together and underwent surgeries and incurred medical expenditure to the tune of more than a sum of Rs.2,00,000/- as evidenced by Ex.P.20. The Tribunal erred in awarding compensation under loss of income and also erred in awarding compensation under disability when the doctors who assessed the disablement of the petitioner as 40 + 40 % were examined as P.W.3 and P.W.4 and marked Ex.P21 and Ex.P23. The Tribunal erred in fixing monthly income and awarding lesser sum towards loss of amenities. Hence, he prays for enchancement of compensation.

7. The learned counsel for the respondents, on the other hand, submits that the order of the Tribunal is just and fair and it does not requires interference by this Court.



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8. Heard the learned counsel appearing for the parties and perused the records.

9. On the point of quantum of compensation, the Tribunal has awarded Rs.1,50,000/- towards disability, since the petitioner sustained multiple fractures all over the body and P.W.3 and P.W.4, Doctors, who assessed the disability of the petitioner as 40% + 40% and the same has been marked in Ex.P21 and Ex.P.23, this Court is inclined to enhance the award amount to Rs.1,60,000/-. The Tribunal awarded Rs.30,000/- towards loss of income, since the accident is of the year 2011 and hence, this Court is inclined to enhance the award amount to Rs.42,000/- (7000x6). The Tribunal awarded Rs.10,000/- towards attender charges, which appears to be lower side and hence, this Court is inclined to enhance the award amount to Rs.25,000/-. Though the Tribunal has not awarded any compensation under the head loss of amenities, this Court is inclined to grant Rs.20,000/- towards loss of amenities. The Tribunal awarded Rs.1,73,750/- towards medical expenses, Rs.1,00,000/- towards pain and suffering, Rs.25,000/- towards transportation, Rs.50,000/- towards loss of estate, Rs.25,000/- towards nutrition and extra nourishment, which appears to be just and reasonable and the same are hereby confirmed.



10. In the light of the said discussions, the modified award is as follows:

<i>Sl.Nos.</i>	<i>Heads</i>	<i>Compensation</i>
1.	Loss of Disability	Rs.1,60,000/-
2.	Medical expenses	Rs.1,73,750/-
3.	Pain and suffering	Rs.1,00,000/-
4.	Nutrition and extra nourishment	Rs.25,000/-
5.	Transportation	Rs.25,000/-
6.	Loss of estate	Rs.50,000/-
7.	Attender Charges	Rs.25,000/-
8.	Loss of income	Rs.42,000/-
9.	Loss of amenities	Rs.20,000/-
Total		Rs.6,20,750/-

Accordingly, the amount awarded by the Tribunal is enhanced from Rs.5,63,750/- to Rs.6,20,750/- together with interest at 7.5% per annum from the date of petition till the date of realization

11. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the compensation from Rs.5,63,750/- to Rs.6,20,750/- to the extent indicated above. No Costs.

(ii) the 2nd respondent is directed to deposit the enhanced award amount, with interest and costs before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order.



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(iii) on such deposit being made, the claim Petitioner is permitted to withdraw the entire enhanced award amount with accrued interest and costs, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) the claim Petitioner is directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

22.06.2023

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

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To

The Presiding Officer,
The Motor Accident Claim Tribunal, (Special District Judge),
Dharmapuri.

A.A.NAKKIRAN.J.



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