



C.M.A.(MD)No.900 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 24.08.2023

Pronounced on : 26.09.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.M.A.(MD)No.900 of 2019

Lakshmana Kumar

... Appellant/
Claimant

Vs.

1. Murugan

2. United India Insurance Company Limited,
through its Branch Manager,
Office at Catholic Centre,
Main Road,
Kovilpatti.
(Policy Number 0914013114P100979825
and valid from 12.05.2014 to 11.05.2015)

... Respondents/
Respondents

Prayer : This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to call for the records relating to the judgment and decree dated 23.04.2019 made in M.C.O.P.No.1063 of 2014 on the file of the Motor Accident Claims Tribunal/Principal District Judge, Tirunelveli and set aside the same and consequently enhance the compensation.



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For Appellant : Mr.V.Sasi Kumar
For R1 : Mr.D.Srinivasa Raghavan
For R2 : Mr.A.Elango

JUDGMENT

The Civil Miscellaneous Appeal is directed against the award passed in M.C.O.P.No.1063 of 2014 dated 23.04.2019 on the file of the Motor Accident Claims Tribunal/Principal District Court, Tirunelveli.

2. The appellant/claimant, who was awarded with compensation of Rs.10,27,689/- (Rupees Ten Lakhs Twenty Seven Thousand Six Hundred and Eighty Nine only) with interest at 6.5% per annum payable by the second respondent/insurer for the disability suffered by him, consequent to an accident occurred on 17.06.2014, challenged the quantum of compensation awarded at, by the Tribunal and claimed enhancement of the same.

3. It is the specific case of the appellant/claimant that he suffered 14 types of injuries, which includes 5 fractures, that after the accident, he was



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taken to Government Hospital, Kovilpatti and after first aid treatment, he was taken to Chella Suriya Hospital and that subsequently, he had taken treatment as inpatient at Muthu Hospital, Madurai and Ganga Medical Centre and Hospitals Private Limited, Coimbatore.

4. It is the further case of the appellant/claimant that he underwent several injuries and due to the injuries, he has suffered permanent disability and the same was assessed at 64%.

5. It is evident from Ex.P.10-Discharge Summary issued by Chella Suriya Hospital that the appellant/claimant was diagnosed to have the following injuries (1) comminuted fracture posterior wall & column of (Rt) acetabulum with posterior dislocation (Rt), (2) hip comminuted fracture shaft of femur (Rt), (3) fracture clavicle (Rt) with subluxation of middle cuneiform bone and (4) head injury. It is further evident that the appellant/claimant was admitted in Chella Suriya Hospital on 17.06.2014 and was discharged on 02.07.2014 and that he was again admitted on 01.08.2014 and was discharged on 06.08.2014. In Ex.P.10, it has been stated that the appellant/claimant had undergone surgeries on 19.06.2014,



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21.06.2014 and 01.08.2014. It is evident from Ex.P.16-Discharge Summary issued by Muthu Hospital, Madurai that the appellant/claimant was admitted on 29.01.2017 and was discharged on 01.02.2017 for removal of implants.

6. P.W.4-medical officer attached to Ganga Medical Centre and Hospitals Private Limited would say that the appellant/claimant was admitted in their hospital on 03.06.2017 and was discharged on 10.06.2017 and that he had also taken treatment as outpatient and produced the copies of the records maintained in the hospital under Ex.P.27. P.W.3-medical officer has issued a disability certificate under Ex.P.11, wherein, he has fixed the disability at 64%. But the Medical Board attached to Tirunelveli Medical College Hospital, after examining the appellant/claimant, has fixed the disability at 55%. P.W.2-medical officer attached to Chella Suriya Hospital has deposed about the treatment given to the appellant/claimant and according to him, the appellant/claimant was admitted as inpatient twice in their hospital. No doubt, the appellant/claimant has suffered several injuries, which includes fractures and that he had taken treatment for long period in various hospitals.



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Admittedly, the appellant/claimant at the time of accident was working as a police constable. Even according to the appellant/claimant, after the accident, he was promoted as a Head Constable. Considering the above, the Tribunal has rightly come to a decision that the appellant/claimant has not suffered any loss of income and loss of earning power and as such, he is not entitled to get any amount in that regard. But considering the age of the appellant/claimant at 19 years, nature of injuries suffered and the consequent disability sustained, this Court is of the view that the appellant/claimant is entitled to get Rs.5,000/- per percentage and as such, the disability compensation comes to Rs.2,75,000/- (55 x 5,000).

7. The Tribunal, considering Ex.P.9, Ex.P.20 and Ex.P.23, has rightly awarded a sum of Rs.72,000/- for transportation and accommodation. The Tribunal, taking note of the medical bills under Ex.P.2 to Ex.P.5, Ex.P.15, Ex.P.17, Ex.P.19 and Ex.P.22, has granted sum of Rs.4,80,454/- towards medical expenses.

8. The appellant/claimant through P.W.4-medical officer has produced two medical bills (1) advance receipt for Rs.97,655/- and (2) other credit bill for Rs.2,52,655/-. No doubt, P.W.4 would depose about



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the said bills. It is not in dispute that the bill amount of Rs.2,52,655/- was claimed from the insurance company and as such, as rightly observed by the Tribunal, the appellant/claimant is not entitled to get that amount. But, the Tribunal has granted Rs.97,655/- towards medical expenses. As rightly contended by the learned counsel appearing for the respondents/respondents, the said amount was paid as advance and Ganga Medical Centre and Hospitals Private Limited has issued the medical bill for Rs.2,52,655/- which would include the said amount. Since the first bill under Ex.P.18 was issued as an advance receipt, the appellant/claimant is not entitled to get that amount again.

9. Considering the number of injuries suffered, period of inpatient treatment, consequent disability sustained and other attending circumstances, awarding Rs.1,00,000/- towards pain and suffering, Rs.50,000/- towards extra nourishment and Rs.35,000/- towards attendant charges are reasonable.

10. The learned counsel appearing for the appellant/claimant would submit that the appellant/claimant has applied for recruitment of Sub Inspector of Police, but he was disqualified in the endurance test and he



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has produced the disqualification slip dated 04.09.2015 under Ex.P.14. As rightly contended by the learned counsel appearing for the appellant/claimant, considering the disability sustained, it is very difficult for the appellant/claimant to pass the physical tests and as such the possibility of selection as Sub Inspector of Police directly is remote. Considering the above fact that the appellant/claimant has lost his opportunity, this Court is inclined to grant lump sum compensation of Rs.1,00,000/-.

11. The learned counsel appearing for the appellant/claimant would submit that P.W.4-Doctor deposed that since the appellant/claimant had undergone many surgeries in right hip and thigh, the artificial hip should be replaced for every 10 to 15 years and that since he suffered with head injury along with bone injuries, necessary surgeries ought to be done for the removal of excess bones. Though there is no evidence to show the amount which is required for future medical expenses, considering the nature of surgeries underwent by the appellant/claimant and taking note of evidence of P.W.4, this Court is inclined to grant Rs.50,000/- for future medical expenses. Hence, the appellant/claimant is entitled to get total compensation of Rs.11,62,454/- and the compensation awarded by the Tribunal is modified as follows:-



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S. No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced
1.	Disability	1,92,500	2,75,000	Enhanced
2.	Pain and suffering	1,00,000	1,00,000	Confirmed
3.	Extra nourishment	50,000	50,000	Confirmed
4.	Transportation	72,000	72,000	Confirmed
5.	Medicine and Medical expense	5,78,189	4,80,454	Reduced
6.	Attendant charges	35,000	35,000	Confirmed
7.	Loss of opportunity	Nil	1,00,000	Granted
8.	Future medical expenses	Nil	50,000	Granted
	Total	10,27,689	11,62,454	Enhanced by Rs.1,34,765/-

12. The Tribunal, considering the fact that some of the medical expenses were incurred by the appellant/claimant subsequent to the filing of the claim petition, has decided to award interest at 6.5% per annum from the date of petition. But as rightly contended by the learned counsel appearing for the appellant/claimant, the Tribunal has adopted a hypertechnical view and as such, the reason assigned for reducing interest



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is not convincing. Hence, this Court is of the view that the appellant/claimant is entitled to get interest at 7.5% per annum.

13. Considering the other facts and circumstances, this Court, further decides that the parties are to be directed to bear their own costs.

14. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.10,27,689/- (Rupees Ten Lakhs Twenty Seven Thousand Six Hundred and Eighty Nine only) is hereby enhanced to **Rs.11,62,454/- (Rupees Eleven Lakhs Sixty Two Thousand Four Hundred and Fifty Four only)**. The second respondent/ Insurer is directed to deposit the modified enhanced amount with interest at 7.5% per annum from the date of claim petition till the date of deposit, except for Rs.50,000/- awarded towards future medical expenses, which will carry interest from the date of award namely 23.04.2019 till deposit to the credit of M.C.O.P.No.1063 of 2014 on the file of Motor Accident Claims Tribunal/Principal District Court, Tirunelveli, after deducting the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made,



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the appellant/claimant is permitted to withdraw the award amount with interest and costs, less amount already withdrawn, if any, on due application before the Tribunal. Parties are directed to bear their own costs. The appellant is **directed to pay the court fee** for the enhanced compensation, if any, and the Registry is directed to draft the decree only after the payment of Court fee.

26.09.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
csm

To:

1. The Motor Accident Claims Tribunal /
Principal District Court,
Tirunelveli.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

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Pre-Delivery Order made in
C.M.A.(MD)No.900 of 2019

Dated : 26.09.2023