



C.M.A.(MD).No.1097 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.1097 of 2017

Subbiah Appellant/ Petitioner
-vs-

1. Balasubramanian
2. The United India Insurance Company Ltd.,
Through its Branch Manager,
Namakkal. ... Respondents/ Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No.320 of 2008 on the file of the Motor Accident Claims Tribunal, Additional District Court/Fast Track Court No.I, Tirunelveli, dated 10.10.2011.

For Appellant : Mr.T.Selvakumaran

For Respondents : Mr.R.Ravindran – For R2

: No appearance – For R1



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J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the claimant seeking enhancement of compensation arising out of the award passed by the Motor Accidents Claims Tribunal, Additional District Court/Fast Track Court No.I, Tirunelveli, dated 10.10.2011, made in M.C.O.P.No.320 of 2008.

2. The learned counsel appearing for the appellant/claimant had contended that he met with an accident, who was driving a two wheeler and vehicle belonging to the first respondent dashed against him and he was injured in the said accident on 06.12.2005. He was taken for first aid to Sakthi Hospital at Vannarpettai and thereafter, he was referred to Sushrushah Hospital at Nagercoil, wherein he was an inpatient for 15 days. Based upon the said pleadings, the claimant had sought for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) as compensation.

3. The Tribunal, after considering the oral and documentary evidence and the Disability Certificate – Ex.P-9, has arrived at a finding that the



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claimant is entitled to a compensation of sum of Rs.90,000/- (Rupees Ninety Thousand only). This Award is under challenge in the present appeal.

4. According to the learned counsel appearing for the appellant, the Court has taken 35% as permanent disability and awarded a sum of Rs.2000/- (Rupees Two thousand only) per percentage of the disability, but, ought to have awarded a sum of Rs.3,000/- (Rupees Three Thousand only) per percentage for the disability. However, this Court is not inclined accept the said contention in view of the fact that the accident has taken place in the year 2005 and the Tribunal was right in fixing Rs.2,000/- (Rupees Two Thousand only) per percentage of the disability.

5. The learned counsel appearing for the appellant further contended that the injured claimant was an inpatient for nearly 15 days. The said fact has not been taken into consideration either for expenses, extra nourishment or towards loss of income to the attender. He further contended that the petitioner has been transported from Thirunelveli to Nagarcoil and thereafter, back to Nagercoil and then to Tirunelveli. Therefore, the transport charges should have been taken into consideration.



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6. Per contra, the learned counsel appearing for the second respondent contended that the Tribunal has properly appreciated the oral and documentary evidence and fixed the quantum of Rs.90,000/- (Rupees Ninety Thousand only) and therefore, the award does not call for any interference.

7. I have carefully considered the submissions made by the learned counsel on either side.

8. It could be seen from the Medical records, viz., Ex.P3 to Ex.P7 that the petitioner was originally admitted to Sakthi Hospital at Vannarpettai for first aid and thereafter, he was taken to Sushrushah Hospital at Nagercoil and he was an inpatient for 15 days. Therefore, the Tribunal ought to have awarded a sum of Rs.10,000/- (Rupees Ten Thousand only) for extra nourishment and the attender charges at the rate of Rs.5,000/- (Rupees Five Thousand only). The transportation of the petitioner from Vannarpettai to Nagercoil is covered by ambulance bill marked as Ex.P.7. However, the petitioner has to return back from Nagercoil to Tirunelveli which has not been considered by the Tribunal and therefore, under the said head for transport



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expenses another sum of Rs.10,000/- (Rupees Ten Thousand only) would be awarded and a total sum of Rs.25,000/- (Rupees Twenty Five Thousand only) is enhanced. The enhanced amount will carry interest at the rate of 7.5% from the date of claim petition. The enhancement amount shall be deposited by the Insurance Company within a period of eight weeks from the date of receipt of a copy of this order.

9. In view of the above said facts, this Civil Miscellaneous Appeal is allowed to the extent as stated above. There shall be no order as to costs.

23.03.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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- To
1. The Motor Accident Claims Tribunal,
Additional District Court/Fast Track Court No.I,
Tirunelveli.
 2. The United India Insurance Company Ltd.,
Through its Branch Manager,
Namakkal.
 3. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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