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C.M.A.No.3151 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3151 of 2012

R.Sakthivel

... Appellant

Vs.

1.Paul Udaya Suriyan

2.The New India Assurance Company Ltd.,
No.46, Moore Street,
Chennai – 01.

(The 1st respondent exparte in
lower court, hence notice may
be dispense with)

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow the appeal and be pleased to allow the claim in M.C.O.P.No.4160 of 2006, on the file of the Motor Accidents Claims Tribunal (IIIrd Fast Track Court), Chennai.

For Appellant : Mr.K.Varadha Kamaraj
For Respondents : R1 – Exparte
Mr.S.Dhakshnamoorthy for R2

J U D G M E N T

This appeal has been filed against the judgment and decree



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dated 15.07.2008 passed by the Motor Accidents Claims Tribunal, III Fast Track Court, Chennai, in M.C.O.P.No.4160 of 2006.

2.The learned counsel appearing for the appellant submitted that on 12.08.2006, at about 19.45 hours, when the appellant was standing opposite to his office at Shanthi Nagar Road, Kandan Chavadi, the Mahindra Van bearing Registration No.TN 07-Q-5562 came in a rash and negligent manner in the said Road and one lengthy pipe which was protruding outside the left side body of the Van hit the appellant, due to which, the appellant sustained injuries.

3.The learned counsel appearing for the appellant further submitted that thereafter, the injured claimant/ appellant filed claim petition before the Tribunal, claiming compensation of Rs.2 Lakhs. After adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.69,000/- with interest at the rate of 9% p.a. from the date of petition till the date of realisation. Aggrieved by the same, the appellant claimant has filed this appeal for enhancement in compensation.



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4.The learned counsel appearing for the appellant further submitted that the appellant has filed this appeal questioning the quantum of compensation awarded by the Tribunal. The learned counsel further submitted that the amount awarded by the Tribunal under various heads are very very meagre and hence, the appellant is entitled for enhancement in compensation.

5.The learned counsel appearing for the second respondent Insurance Company submitted that the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference.

6.Heard the learned counsel appearing for the appellant claimant as well as the learned counsel appearing for the second respondent Insurance Company and perused the materials available on record.

7.This appeal has been filed only questioning the quantum of compensation awarded by the Tribunal. Hence, there is no need for any discussion with regard to negligence aspect. The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.5,000/-



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for pain and sufferings, Rs.2,000/- for conveyance expenditure, Rs.2,000/- for nutritious diet, Rs.10,000/- for medical expenditure, Rs.50,000/- for disability and arrived at a total compensation of Rs.69,000/- with interest at the rate of 9% p.a. from the date of petition till the date of realisation.

8.This Court is of the considered opinion that some amount have to be awarded for loss of earning power and attender charges. Accordingly, this Court awards a sum of Rs.10,000/- for loss of earning power and a sum of Rs.5,000/- for attender charges. The amount awarded under the heads disability and medical expenditure, in the opinion of this Court are just and reasonable and the same are confirmed. The amount awarded under the other heads, in the opinion of this Court are low and this Court is inclined to enhance the amount awarded under the other heads. Accordingly, the amount awarded for pain and sufferings is enhanced to Rs.20,000/- from Rs.5,000/-, the amount awarded for nutritious diet is enhanced to Rs.10,000/- from Rs.2,000/-, the amount awarded for conveyance expenditure is enhanced to Rs.10,000/- from Rs.2,000/-.

9.Accordingly, the compensation amount is re-assessed as



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follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Pain and sufferings	Rs. 5,000/-	Rs. 20,000/-
2.	Conveyance expenditure	Rs. 2,000/-	Rs. 10,000/-
3.	Nutritious diet	Rs. 2,000/-	Rs. 10,000/-
4.	Medical expenditure	Rs.10,000/-	Rs. 10,000/-
5.	Disability	Rs.50,000/-	Rs. 50,000/-
6.	Attender charges	---	Rs. 5,000/-
7.	Loss of earning power	---	Rs. 10,000/-
	Total	Rs.69,000/-	Rs.1,15,000/-

10.The appellant claimant is entitled to total compensation of Rs.1,15,000/- along with interest at the rate of 9% p.a. from the date of petition till the date of realisation.

11.The civil miscellaneous appeal is partly allowed. The judgment and decree dated 15.07.2008 passed by the Motor Accidents Claims Tribunal, III Fast Track Court, Chennai, in M.C.O.P.No.4160 of 2006, is modified to the above extent.

12.The second respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal



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within a period of six weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such deposit being made, the appellant/ claimant is permitted to withdraw the modified/ enhanced award amount, along with accrued interest and costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellant/ claimant shall not be entitled to any interest for the period of delay, if any, in filing/ representing the appeal. The appellant/ claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accidents Claims Tribunal, III Fast Track Court, Chennai, shall disburse the compensation amount upon production of certified copy showing proof of payment of Court fee by the appellant/ claimant.

13.The civil miscellaneous appeal is partly allowed. No costs.

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal,
III Fast Track Court, Chennai.

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M.DHANDAPANI,J.
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