



C.M.A.No.1528 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

C.M.A.No.1528 of 2022

R.Dhanavel @ Viji
S/o.Rajamanickam

... Appellant / Petitioner

Vs.

1. B.Lakshmi
W/o.Balakrishnan

2. The Divisional Manager,
United India Insurance Company Limited,
No.13A, Nethaji Road,
Cuddalore.

... Respondents / Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.2421 of 2015, dated 30.04.2019, on the file of the Motor Accidents Claims Tribunal / I Additional District and Sessions Judge, Cuddalore.

For Appellant : Mrs.Ramya V.Rao

For Respondents : Mr.S.Magesh
for Mr.D.Baskaran for R2

J U D G M E N T

This civil miscellaneous appeal has been filed by the claimant in M.C.O.P.No. 2421 of 2015, aggrieved over the quantum of compensation



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awarded by the Motor Accidents Claims Tribunal / I Additional District and Sessions Judge, Cuddalore, wherein the Motor Accidents Claims Tribunal has awarded a sum of Rs.63,000/- as compensation for the injuries sustained by the claimant in the accident that took place on 01.06.2015.

2. For the sake of convenience, the parties are referred to herein according to their litigative status before the Tribunal.

3. The case of the claimant is that he was travelling as a pillion rider on 01.06.2015 in a two wheeler bearing Registration No.TN-02-AF-5405 towards Murugangudi, and at about 21.00 hrs, the offending vehicle, a car, which came in the opposite direction, was driven by the first respondent in a rash and negligent manner and hit the two wheeler as a result of which, the claimant sustained grievous injuries. The Medical Board has assessed the disability at 11%. It is under these circumstances, the claim petition came to be filed before the Tribunal.

4. The first respondent is the owner of the car bearing Registration No.TN-20-BM-7130 and has not contested the claim and remained exparte



before the Tribunal. The second respondent / Insurance Company contested the claim challenging the manner in which the accident had taken place as well the quantum of compensation claimed under various heads. Hence, he prays to dismiss the claim petition.

5. Before the Tribunal, on the side of the claimant, P.W.1 and P.W.2 were examined and Exs.P1 to P17 were marked. On the side of the second respondent, no witnesses were examined and no exhibits were marked. The Court document was marked as Ex.C1. The Tribunal after considering the evidence placed on record accepted the case of the claimant and awarded a sum of Rs.63,000/- along with interest @ 7.5 per annum from the date of filing of claim petition till the date of realization. Aggrieved over the quantum of compensation, the claimant has come forward with this appeal seeking enhancement of compensation.

6. According to the claimant, he has sustained fracture on his left petella and other injuries. The Medical Board assessed his disability at 11%. However, the Tribunal has not properly awarded the compensation under the head 'disability' and also under the head 'loss of income' during



the period of disablement. The learned counsel further stated that the compensation has not been awarded under the heads 'extra nourishment', 'attender charges' and 'loss of amenities' and hence, prays for enhancement of compensation.

7. The learned counsel for the second respondent submits that the compensation itself is fixed based on the well considered award of the Tribunal, however, the second respondent also found that there are some heads for which no compensation has been awarded.

8. I have considered the submissions made on both sides and perused the materials available on record.

9. In this case, admittedly the petitioner has sustained fracture on his left petella and he has also underwent surgery and was impatient from 02.06.2015 to 12.06.2015. The Tribunal has awarded a sum of Rs.3,000/- per percentage of disability. However, considering the date of accident, this Court is inclined to modify the same by adopting Rs.5,000/- per percentage of injury and award compensation of Rs.55,000/- (Rs.5,000/- x 11%) as per the norms followed by this Court.



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10. The evidence placed on record shows that the petitioner after discharging from the hospital also continued the treatment and was not able to do his regular avocation. This Court, considering the period and also the nature of injury, is of the view that, granting loss of income for a period of three months would be sufficient and the same is modified. Further, the monthly income fixed by the Tribunal at Rs.7,500/- is on the lower side and the same is modified to Rs.10,000/- by considering the date of accident. Accordingly, this Court is inclined to award Rs.30,000/- (10,000/- X 3) as compensation under the head 'loss of income' during the treatment period.

11. Considering the nature of injuries, this Court is of the view that the meagre amount of Rs.10,000/- awarded by the Tribunal under the head 'pain and sufferings' is hereby enhanced to Rs.30,000/- and the award for 'transportation' is hereby enhanced from Rs.5,000/- to Rs.10,000/- The Tribunal has not awarded any amount with regard to 'extra nourishment', 'attender charges' and 'loss of amenities' and hence, this Court is inclined to fix a compensation of Rs.10,000/- each for 'extra nourishment' and 'attender charges' and also a sum of Rs.20,000/- under the head 'loss of amenities'. Thus, the compensation awarded by the Tribunal is modified as follows:



12. Accordingly, the award passed by the Tribunal under various heads is hereby modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or reduced
1.	Disability	33,000/-	55,000/-	Enhanced
2.	Loss of Income	15,000/-	30,000/-	Enhanced
3.	Pain and Sufferings	10,000/-	30,000/-	Enhanced
4.	Transportation	5,000/-	10,000/-	Enhanced
5.	Extra Nourishment	-	10,000/-	Granted
6.	Attender Charges	-	10,000/-	Granted
7.	Loss of Amenities	-	20,000/-	Granted
	Total Compensation	63,000/-	1,65,000/-	Enhanced

13. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.63,000/- is hereby enhanced to **Rs.1,65,000/-** together along with interest at the rate of 7.5% per annum from the date of filing of claim petition till the date of deposit, excluding the default period, if any. The second respondent - Insurance Company is directed to deposit the amount awarded by this Court along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to



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the credit of M.C.O.P.No.2421 of 2015 on the file of the Motor Accidents Claims Tribunal / I Additional District and Sessions Judge, Cuddalore. On such deposit, the appellant is permitted to withdraw the award amount now determined by this Court along with interest and costs, less the amount if any, already withdraw. The Tribunal shall disburse the amount now awarded by this Court by directly giving credit to the Savings Bank Accounts of the claimant. Since this Court has enhanced the compensation, the appellant / claimant is directed to pay the necessary Court fee, if any, on the enhanced compensation. There shall be no order as to costs in the present appeal.

20.12.2024

Index :Yes / No
Speaking Order :Yes / No
Neutral Citation Case: Yes / No
vji

To

1. The Motor Accidents Claims Tribunal /
I Additional District and Sessions Judge,
Cuddalore.
2. The Divisional Manager,
United India Insurance Company Limited,
No.13A, Nethaji Road, Cuddalore.
3. The Section Officer,
V.R. Section, High Court, Chennai.



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K.RAJASEKAR, J.

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