



Civil Miscellaneous Appeal No.947 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Civil Miscellaneous Appeal No.947 of 2021

P.Ramasubramanian

... Appellant

Vs.

1.R.Babu Diro Kumar

2. Joel Samkumar

3. United India Insurance company Ltd.,
Rep. by its Branch Manager,
TVR Corner Building,
Old Bus Stand Road,
Erode District-638 052.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree in M.C.O.P.No.70 of 2017 dated 07.10.2020 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Perundurai.

For Appellant : Mr.K.R.Arun Shabari

For Respondents : Mr.A.Dhiraviyanathan R3
R2 – Set Ex-parte
R1 – No appearance

JUDGMENT



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The claimant not being satisfied with the quantum of compensation awarded in M.C.O.P.No.70 of 2017 dated 07.10.2020 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Perundurai has filed the present appeal.

2. The case of the claimant is that on 07.02.2016 at about 12.45 p.m. he was riding a two wheeler bearing Reg. No.TN 07 BE 4910 in a Salem-Kovai National Highway, at that time, a car bearing Reg. No.TN 09 AH 1909 driven by its driver, driven in a rash and negligent manner and it came in the same direction and hit the two wheeler and as a result of which, the claimant sustained grievous injuries and undergone surgeries. The Medical Board assessed the disability at 60%. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence came to a conclusion that the accident had taken place only due to the rash and



negligent driving on the part of the driver of the car. Having rendered such a finding, the Tribunal found that the claimant was travelling on the right side at that time of the accident. Therefore, 10% contributory negligence was attributed against the claimant. The Tribunal thereafter proceeded to fix the total compensation at Rs.8,42,770/- under various heads various heads with interest at the rate of 7.5% per annum. The claimant not being satisfied with the quantum of compensation fixed by the Tribunal has filed this appeal seeking for enhancement of compensation.

4. The learned counsel for the appellant submitted that the appellant has sustained grievous injuries and the doctors assessed 60% disability due to the accident. The accident had happened in the year 2016. However, the Tribunal has fixed a sum of Rs.3,000/- per percentage for the disability, which is too low. Without considering the same, the Tribunal has awarded meager amount for the disability. Therefore, this Court may interfere with the impugned award and modify the same.

5. Per contra, the learned counsel appearing for the third



respondent-Insurance Company contended that due to rash and negligent driving of the driver, the accident had happened. The compensation awarded by the Tribunal in favour of the appellant is just and reasonable, which needs no interference. Hence, this Court may dismiss the petition.

6. Heard the learned counsel for appellant/claimant and the learned counsel for 3rd respondent.

7. This Court has carefully considered the submissions made on either side and the materials available on record.

8. This Court also carefully went through the award passed by the Tribunal.

9. The fact in the present case is not in dispute and the manner of the accident is also not in dispute. For enhancement of compensation, the present appeal has been filed.

10. According to the appellant, the first respondent driving a car in



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rash and negligent manner and dashed against the appellant and therefore, he sustained injuries. It is the main ground of the appellant that the Tribunal has awarded very meager amount in respect of disability and loss of income from the treatment period. The appellant is 29 years old at the time of the accident and he was working as an Assistant Manager in Canara Bank and earned monthly a sum of Rs.40,000/- per month. In order to prove the income, he has produced the bank pass book before the Tribunal. Even then the Tribunal has awarded a sum of Rs.3000/- per percentage for the disability which is very meager. The accident has happened in the year 2016. This Court is inclined to interfere with the award in respect of the head viz disability and this Court awarded a sum of Rs.5,000/- per percentage. Considering the nature of injuries sustained by the claimant, this Court is also inclined to modify the award in respect of extra nourishment, which the appellant is entitled for. The other heads awarded by the Tribunal is just and proper, which cannot be interfered with. Accordingly, the order passed by the Tribunal stands modified as follows:



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<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Modified Award Amount (Rs.)</i>
Disability	1,80,000	3,00,000
Loss of income	3,32,320	3,32,320
Transportation	27,500	27,500
Pain and suffering	50,000	50,000
Extra nourishment	20,000	30,000
Future medical exp.	25,000	25,000
Medical exp.	3,01,587	3,01,587
Total	9,36,407	10,66,407
After deducting 10% negligence	8,42,770	9,59,766 rounded off to Rs.9,59,800/-

11.The compensation awarded by the Tribunal at Rs.8,42,770/- is enhanced to Rs. 9,59,800/-. The negligence fastened by the Tribunal as against the appellant is confirmed. The third respondent Insurance company is directed to deposit the entire compensation awarded by this Court, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



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12. With the above directions, the Civil Miscellaneous Appeal is partly allowed in the above terms. No costs.

17.12.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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M.DHANDAPANI.,J

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To,
Motor Accident Claims Tribunal, Subordinate Judge, Perundurai.

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