



C.M.A.No.1234 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1234 of 2021

K.Karuppannan

...Appellant

Vs.

1.M.Neelamegam

2.The National Insurance Company Limited,
Divisional Office I,
LRN Colony, Sarada College Road,
Salem – 636 007.

...Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 29.01.2020 passed in M.C.O.P.No.387 of 2018 on the file of Motor Accidents Claims Tribunal /Special Subordinate Judge No.1, Salem.

For Appellant : Mr.C.Thangaraju
For Respondent : R1 – No appearance
Mr.D.Bhaskaran for R2



C.M.A.No.1234 of 2021

WEB COPY

J U D G M E N T

This appeal is filed by the appellant challenging the judgment and decree dated 29.01.2020 passed in M.C.O.P.No.387 of 2018 on the file of Motor Accidents Claims Tribunal/Special Subordinate Judge No.1, Salem.

2.For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.

3.The petitioner is the claimant, the first respondent is the owner of the vehicle and the second respondent is the Insurance Company before the Tribunal.

4.The brief facts of the case are as follows:

On 08.06.2017 at 11.00 a.m. while the petitioner was walking on the left side of the road near Maganur Colony, Karumalaikoodal at that time, Hyundai Accent Car bearing Registration No.TN 29 F 7979, driver drove the car in a rash and negligent manner, hit the petitioner and



C.M.A.No.1234 of 2021

WEB COPY

caused the accident. Due to the accident, the petitioner sustained grievous injuries and several injuries all over his body. A criminal case was registered in Crime No.106/2017 under Sections 279, 338 of IPC by Karumalaikoodal Police, Salem District. The petitioner filed a claim petition before the Tribunal in M.C.O.P.No.387 of 2018, the Tribunal has awarded a sum of Rs.4,00,948/- as compensation. Aggrieved by the same, the present appeal has been filed.

5.Learned counsel appearing for the appellant submitted that the appellant was walking on the road, the accident occurred only due to the rash and negligent driving by the driver of the car bearing Registration No.TN 29 F 7979 and due to the accident, the appellant sustained both leg injuries and several injuries all over the body. He further submitted that the compensation awarded by the Tribunal is very meagre and requested this Court to enhance the compensation. Hence, he prayed for appropriate orders.



C.M.A.No.1234 of 2021

WEB COPY

6.Learned counsel appearing for the second respondent submitted that the Tribunal after considering the oral and documentary evidence has awarded the compensation which is just and reasonable and no interference is required by this Court. Hence, he prayed for dismissal of the appeal.

7.Heard learned counsel appearing for the appellant as well as the learned counsel appearing for the second respondent and perused the materials available on record.

8.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only challenging the quantum of compensation. Hence, there is no need for any discussion with regard to negligence.

9.Before the Tribunal, the petitioner was examined as PW1, the Doctor who treated the petitioner was examined as PW2 and on the side of the petitioner, 8 documents were marked as Exs.P1 to P8. On the side of the second respondent, Mr.Sriram, Junior Assistant, Regional



C.M.A.No.1234 of 2021

WEB COPY

Transport Office, Mettur was examined as RW1, Mr.Annamalai, Administrative Officer, National Insurance Company was examined as RW2 and 4 documents were marked as Exs.R1 to R4. The certificate of the Regional Transport Officer, Mettur indicating that no driving license has been issued to the first respondent was marked as Ex.W1.

10.The Tribunal after elaborately discussing the factual aspects awarded a sum of Rs.35,000/- for pain and suffering, Rs.45,000/- for loss of income, Rs.1,34,948/- for medical expenses, Rs.15,000/- for transportation, Rs.15,000/- for extra nourishment, Rs.15,000/- for attender charges, Rs.1,000/- for damage to cloth, Rs.35,000/- for loss of amenities, Rs.1,05,000/- for permanent disability and arrived at a total compensation of Rs.7,46,948/- with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

11.Perusal of the records, it is seen that the petitioner was aged 59 years, was a farmer (coolie) and earning Rs.10,000/- per month at the time of the accident.



C.M.A.No.1234 of 2021

WEB COPY

12.The amount awarded under the heads medical expenses, transportation, attender charges and damage to cloth, in the opinion of this Court are just and reasonable and the same are confirmed. The amount awarded under the heads pain & suffering, extra nourishment and permanent disability, in the opinion of this Court are very meagre and this Court is inclined to enhance the amount awarded under the said heads. Accordingly, the amount awarded under the head pain and suffering is enhanced to Rs.50,000/- from Rs.35,000/-. Accordingly, the amount awarded under the head extra nourishment is enhanced to Rs.20,000/- from Rs.15,000/-. Accordingly, the amount awarded under the head permanent disability is enhanced to Rs.2,45,000/- from Rs.1,05,000/-. The amount awarded under the head loss of income, in the opinion of this Court, is high and this Court is inclined to reduce the amount awarded under the said head. Accordingly, the amount awarded under the head loss of income is reduced to Rs.20,000/- from Rs.45,000/- . The Tribunal has awarded a sum of Rs.35,000/- for loss of amenities. However, this Court is not inclined to award any compensation as it is not necessary.



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13. Accordingly, the compensation awarded by the Tribunal is re-assessed as follows:

<i>S.No.</i>	<i>Description</i>	Amount awarded by Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1	Pain and suffering	35,000/-	50,000/-
2	Loss of income	45,000/-	20,000/-
3	Medical expenses	1,34,948/-	1,34,948/-
4	Transportation	15,000/-	15,000/-
5	Extra nourishment	15,000/-	20,000/-
6	Attender charges	15,000/-	15,000/-
7	Damage to cloth	1,000/-	1,000/-
8	Loss of amenities	35,000/-	-
9	Permanent disability (35% x Rs.7,000/-)	1,05,000/-	2,45,000/-
	Total	Rs.4,00,948/-	Rs.500,948/-

14. The appellant/claimant is entitled to total compensation of Rs.5,00,948/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.



C.M.A.No.1234 of 2021

WEB COPY

15.The judgment and decree passed by the Motor Accident Claims Tribunal/Special Subordinate Judge No.1, Salem. in M.C.O.P.No.387 of 2018 dated 29.01.2020 is modified to the above extent. The pay and recovery awarded by the Tribunal is confirmed by this Court.

16.The second respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant is permitted to withdraw the amount along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal.

17.The appellant/claimant shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The appellant/claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accident Claims Tribunal/Special Subordinate Judge No.1, Salem shall disburse the enhanced amount upon



C.M.A.No.1234 of 2021

WEB COPY

production of certified copy showing proof of payment of Court fee by the appellant/claimant.

18.The Civil Miscellaneous Appeal is partly allowed with the above terms. No costs.

04.12.2024

Index: Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To

1.The Motor Accidents Claims Tribunal/
Special Subordinate Judge No.1, Salem.

2.The Section Officer,
VR Section,
High Court of Madras, Chennai – 600 104.



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C.M.A.No.1234 of 2021

M.DHANDAPANI, J.

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C.M.A.No.1234 of 2021

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