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CMA No.2743 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE. R.HEMALATHA

C.M.A.No.2743 of 2023

Duraisami

... Appellant

Vs.

1. Sivaram

2. The Oriental Insurance Company Limited,
F-4, Visitors Road, Block-2,
Neyveli-607 801.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 25.08.2022 in M.C.O.P.325 of 2019 on the file of the Motor Accident Claims Tribunal, Sub Court, Rasipuram.

For Appellant : Mr.T.S.Arthanareeswaran

For R2 : Ms.G.Sukumari

for Mr.R.Sivakumar



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JUDGMENT

The appellant is the claimant in M.C.O.P.325 of 2019 on the file of the Motor Accident Claims Tribunal, Rasipuram. He filed the above said claim petition under Section 166 of the Motor Vehicles Act, seeking compensation of Rs.15,00,000/- for the injuries sustained by him in a road accident that took place on 19.05.2019.

2. The brief case of the appellant / claimant is as follows :

On 19.05.2019, the claimant was riding a TVS Suzuki motorcycle bearing Registration No.TN-27-K-2068 on Rasipuram - Tiruchengode Main Road. When he was nearing Pillanallur Annamarsamy Temple, a speeding car bearing Registration number TN-31-AT-0196 belonging to the first respondent, hit the motorcycle driven by the claimant, as a result of which, he sustained injuries all over his body. He was immediately rushed to Government Hospital, Pillanallur. After getting first aid, he got himself admitted in University Hospital, Salem, where he was treated as an inpatient for 12 days.



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3. According to the claimant, the rash and negligent driving of the driver of the car bearing Registration number TN-31-AT-0196, was the cause of accident and that since the said vehicle was insured with the second respondent, the Oriental Insurance Company Limited, the owner and the insurer are jointly and severally liable to pay compensation to him.

4. In the Tribunal, the owner of the car remained absent and was set *exparte*. The second respondent, the Oriental Insurance Company Limited resisted the claim petition on all the grounds available to the insurer under Section 170 of the Motor Vehicles Act.

5. The Tribunal vide its orders dated 25.08.2022, fastened negligence on the part of the driver of the car bearing Registration number TN-31-AT-0196 and also held that the owner of the car and the insurer are jointly and severally liable to pay compensation of Rs.2,05,600/- to the appellant (claimant) together with interest at the rate of 7.5% per annum from the date of the petition till the date of realisation.



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6. Aggrieved over the quantum of compensation awarded by the Tribunal, the appellant (claimant) has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

7. Heard Mr.T.S.Arthanareeswaran, learned counsel appearing for the appellant and Ms.G.Sukumari, learned counsel for the second respondent.

8. Mr.T.S.Arthanareeswaran, learned counsel appearing for the appellant contended that the compensation awarded by the Tribunal is not commensurate with the injuries sustained by the claimant. He therefore, prayed for enhancement of compensation.

9. Per contra Ms.G.Sukumari, learned counsel appearing for the second respondent contended that the Award passed by the Tribunal is based on the well laid principles of law which were in vogue at the time of passing of the order and therefore, the same need not be disturbed at this stage.



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10. A perusal of the discharge summary (Ex.P4) shows that the claimant has sustained the following injuries :

- a) Fracture bilateral both pubic rami ; and
- b) Bleeding pile mass

He was also admitted as an in-patient from 19.05.2019 to 30.05.2019. The Medical Board attached to Government Medical College Hospital, Namakkal, has assessed the partial permanent disability of the claimant as 15%. The Tribunal has awarded Rs.5,000/- per percentage of disability since there was no functional disability. The age of the claimant was 68 years on the date of accident and the accident took place in the year 2019. Considering the same, awarding Rs.7,000/- per percentage would meet the ends of justice. Therefore, a sum of Rs.1,05,000/- ($7,000 \times 15 = 1,05,000$) is awarded towards partial permanent disability.

11. The Tribunal while awarding compensation under various heads, has awarded sum of Rs.21,000/- towards "loss of income". On account of the accident, the appellant would not have been in a position to attend to his regular work atleast for six months. Thus, a sum of



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Rs.42,000/- (7,000 x 6 = 42,000) is awarded towards loss of income. The following tabular column would show the amount awarded by the Tribunal and the enhanced amount awarded by this Court under various heads.

Sl. No	Heads	Amount (in Rs.) awarded by the Tribunal	Amount (in Rs.) awarded by the High Court
1.	Pain and suffering	50,000	50,000
2.	Extra nourishment	10,000	10,000
3.	Transportation expenses	5,000	10,000
4.	Loss of amenities	10,000	10,000
5.	Disability	75,000	1,05,000
6.	Attender charges	10,000	10,000
7.	Medical bills	24,600	24,600
8.	Loss of income	21,000	42,000 (7000 x 6)
	Total	Rs.2,05,600/-	Rs.2,61,600/-

12. Thus, the compensation awarded by the Tribunal is enhanced to Rs.2,61,600/- that would carry interest at the rate of 7.5% per annum.



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13. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed. No costs.
- ii. The compensation awarded by the Tribunal is enhanced to Rs.2,61,600/-.
- iii. The appellant / claimant is directed to pay the Court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after receipt of Court fee.
- iv. The second respondent, the Oriental Insurance Company Limited, Neyveli, is directed to deposit the enhanced compensation amount, i.e., Rs.2,61,600/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.325 of 2019 on the file of the Motor Accident Claims Tribunal, Sub Court, Rasipuram, within a period of four weeks from the date of receipt of a copy of this order / uploading of this order.



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v. On such deposit being made, the appellant / claimant is at liberty to withdraw the same, after following due process of law.

vi. The appellant / claimant is not entitled to claim interest for the period of delay of 94 days in filing this appeal.

12.09.2024

Index:Yes/No
Speaking/non Speaking order
Neutral Case citation: yes/no
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To

1. The Motor Accident Claims Tribunal,
Sub-Judge, Rasipuram.
2. The Oriental Insurance Company Limited,
F-4, Visitors Road, Block-2,
Neyveli-607 801.
3. The Section Officer, V.R. Section, High Court, Madras.



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R.HEMALATHA, J

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