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C.M.A.No.1464 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2024

CORAM

THE HON'BLE MRS. JUSTICE R. HEMALATHA

C.M.A.No.1464 of 2024

Saravanan

... Appellant

Vs.

1.Jasmine

2.The Royal Sundharam Alliance Insurance Co. Limited,
Legal Department "Subramaniyan Building",
2nd floor, No.1, Club House Road,
Annasalai, Chennai - 600 002.

... Respondents

PRAYER: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Judgment and Decree dated 22.12.2023 made in M.C.O.P. No.40 of 2022 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Ariyalur.

For Appellant : Mr.Amar Pandiyan

For Respondents : Mr.G.Vasudevan
for R2

R1 - Dispensed with

JUDGMENT

The appellant is the claimant in M.C.O.P. No.40 of 2022 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court,



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Ariyalur. He filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.12,00,000/- for the injuries sustained by him in a road accident which happened on 23.03.2022.

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

On 23.03.2022, the claimant was riding his two wheeler bearing registration No.TN 61 R 8031 on Keezhappazhuvur - Karuvidaicherry road. When he was nearing the market road, the driver of a lorry bearing registration No.TN 61 L 6381 suddenly took the lorry in a reverse gear and hit the two wheeler driven by the appellant. The appellant fell-off from his two wheeler and sustained injuries all over his body. He was immediately rushed to A.S.Nursing Home, where he was treated as an in-patient for eleven days.

3. According to the claimant, he was a teacher in Government High School, Kovilur, Ariyalur (DT) earning a sum of Rs.71,000/- per month and on account of the accident, he sustained fracture of both bones on right leg. He, therefore, prayed for grant of compensation to the tune of Rs.12,00,000/-. The owner of the lorry remained absent before the Tribunal and was set ex-parte.



4. The learned counsel appearing for the second respondent, the Royal Sundharam Alliance Insurance Company Limited resisted the claim petition on all the grounds available to them under Section 170 of the Motor Vehicles Act.

5. The Tribunal after analysing the evidence on record awarded a sum of Rs.3,35,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation, vide its order dated 22.12.2023.

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

7. Heard Mr.Amar Pandiyan, learned counsel appearing for the appellant and Mr.G.Vasudevan, learned counsel for the second respondent, the Royal Sundharam Alliance Insurance Company Limited.

8. Mr.Amar Pandiyan, learned counsel appearing for the appellant contended that the Tribunal had not granted any amount towards medical



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expenses eventhough the appellant produced records to show that he had incurred expenses to the tune of Rs.1,67,000/-. He would further contend that the Tribunal had awarded only a sum of Rs.5,000/- per percentage of disability eventhough the accident took place in the year 2022. He, therefore, prayed for enhancement of compensation awarded by the Tribunal.

9. It is seen from the medical records that the claimant had incurred expenditure to the tune of Rs.1,67,000/- for his treatment. A sum of Rs.38,000/- was reimbursed to him by M/s.Star Health Insurance Company Limited. After deducting the said amount, a sum of Rs.1,29,000/- has to be awarded. The accident happened in the year 2022 and therefore, awarding a sum of Rs.8,000/- per percentage of disability could meet the ends of justice.

10. The following tabular column shows the award passed by the Tribunal and the enhanced amount passed by this Court:

<i>Heads</i>	<i>Amount awarded by the Tribunal in Rs.</i>	<i>Amount awarded by this Court in Rs.</i>
Partial Permanent Disability	2,30,000	(Rs.8,000/- x 46) 3,68,000
Transport to Hospital	10,000	10,000
Pain and sufferings	30,000	30,000
Extra Nourishment	15,000	15,000



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<i>Heads</i>	<i>Amount awarded by the Tribunal in Rs.</i>	<i>Amount awarded by this Court in Rs.</i>
Future Medical Expenses	25,000	---
Loss of amenities	25,000	25,000
Medical Expenses	---	1,29,000
Total	3,35,000	5,77,000

11. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed.
- ii. The compensation awarded by the Tribunal is enhanced from Rs.3,35,000/- to Rs.5,77,000/-.
- iii. The appellant / claimant is directed to pay court fee for the enhanced compensation amount, if any, within a period of four weeks from the date of this order and the Registry is directed to draft the decree only after receipt of the Court fee.
- iv. The second respondent, the Royal Sundharam Alliance Insurance Company Limited is directed to deposit the enhanced compensation amount i.e., Rs.5,77,000/- (less the amount already deposited, if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of a copy of this order to the credit of



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M.C.O.P. No.40 of 2022 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Ariyalur.

- v. On such deposit being made, the appellant / claimant is at liberty to withdraw the same as per the orders passed by the Tribunal after following due process of law. The ratio of apportionment made by the Tribunal shall be kept intact.
- vi. It is made clear that the appellant is not entitled for interest for the period of delay in filing this appeal on the amount enhanced by this Court. No costs.

19.08.2024

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

To

1. The Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Ariyalur.



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2. The Section officer, Record Section, High Court of Madras.

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R. HEMALATHA. J.,

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