



C.M.A.No.6 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 21.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

Civil Miscellaneous Appeal No.6 of 2022

Pushpalingam

... Appellant

Vs.

1. Rajendran

2. Chief Managar,

L&T General Insurance Co. Ltd.,

Kodampakkam High Road, Thirumoorthy Nagar,

Nungampakkam,

Chennai – 600 006.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Award and Decree dated 20.07.2020 passed in M.C.O.P.No.2391 of 2016 on the file of the Motor Accident Claims Tribunal, I Additional Subordinate Judge, Cuddalore.

For Appellant : M/s.Ramya V Rao

For R1 : Mr.Chandur Easwar

For R2 : Mr.T.K.Premkumar



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JUDGMENT

WEB COPY This Civil Miscellaneous Appeal has been filed for enhancement of compensation awarded by the claimant in M.C.O.P. No.2391 of 2016, dated 20.07.2020, on the file of the Motor Accident Claims Tribunal, I Additional Subordinate Judge, Cuddalore.

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

3. The claimant herein was sustained injury in the motor vehicle accident taken place on 19.05.2016 at about 16.15 hours on the Panruti to Chennai Main Road at Kandarakkottai. He has sustained fracture of both bone in the right leg and multiple injuries all over the body. After undergoing treatment, he has come forward with the claim petition seeking compensation of Rs.5,00,000/- under Section 166(1) of the Motor Vehicles Act, before the Tribunal against the respondents, who are the owner and Insurance Company of the offending vehicle.



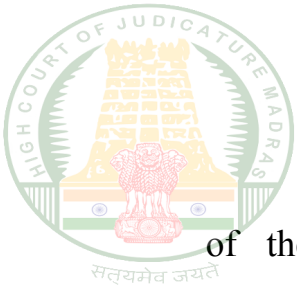
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4. Before the Tribunal, the owner of the vehicle has not contested the claim and the Insurance Company alone has contested the claim petition. After recording evidence and after hearing the parties, Tribunal has quantified and awarded compensation of Rs.6,03,568/- with interest at the rate of 7.5% per annum from the date of filing of claim petition till the date of realisation.

5. The claimant has filed this appeal seeking further enhancement of compensation mainly under two heads such as compensation awarded under the head disability and for loss of income during treatment period of disablement.

6. The learned counsel for the appellant submitted that the appellant has sustained severe grievous injuries on his right leg both bone and non union right tibia on ILIZAROV in SIT of the right leg. He was treated by fixing implants and also undergone bone grafting. The Medical Board has assessed his disability to the extent of 30% permanent disability. The Tribunal by accepting the percentage of disability and also accepted the case



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of the petitioner that he had undergone 4 surgeries and awarded compensation under various heads. However, the compensation awarded under the head disability is on the lower side and also the Tribunal has not properly awarded compensation for the head loss of income during disablement. Hence, prays to enhance the award.

7. Per Contra, the learned counsel for the Insurance Company drawn the attention of this Court under various other heads of compensation and submitted that the compensation awarded under various heads are on the higher side, and the same was granted only for the purpose of awarding more compensation than the claim amount. He further submitted that there is no proper reason for awarding more compensation than the claim amount and the compensation awarded under some of the heads are exorbitant. It is fairly conceded that there is no appeal was filed by the Insurance Company, challenging this award.

8. I have considered the rival submissions made on both sides and also perused the records available.



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9. It is admitted by both sides, that the petitioner has sustained injuries and the same was noted by the Medical Board fixed the assessment of disability as 30% of disablement. The Tribunal has treated this disablement as non-functional disability and awarded a sum of Rs.3,000/- per injury. The accident took place in the year 2016 and this Court is of the view, for the year 2016, a sum of Rs.5,000/- would be granted as per the law laid down in ***Chinnatambi vs. Deepa and Others (2020 (1) TN MAC 617***) case. Accordingly, the compensation awarded under the head disability is modified to Rs.1,50,000/- [5000 x 30].

10. As far as the compensation awarded during the period of disablement is concerned, the Tribunal has awarded 18 months income as loss of income during disablement. The Tribunal, in para 15 of its award has held that after undergoing in-patient treatment, the injuries sustained, had caused temporary disablement, thereby awarded compensation under the head loss of income during disablement period. I am of the view that this assessment of loss of disablement by the Tribunal is proper and there is no need for any interference by this Court. As far as the compensation awarded under various other heads are concerned, the same are just and reasonable



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and the same are hereby confirmed.

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11. Accordingly, the Award passed by the Tribunal under various heads are 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.	For Partial Permanent Disability	Rs.90,000/-	Rs.1,50,000/-	Enhanced
2.	Pain and Sufferings	Rs.1,50,000/-	Rs.1,50,000/-	Confirmed
3.	Loss of Amenities	Rs.1,00,000/-	Rs.1,00,000/-	Confirmed
4.	Extra Nourishment	Rs.18,000/-	Rs.18,000/-	Confirmed
5.	Attender Charges	Rs.15,000/-	Rs.15,000/-	Confirmed
6.	Transport to Hospital	Rs.20,000/-	Rs.20,000/-	Confirmed
7.	Temporary Loss of Income	Rs.1,62,000/-	Rs.1,62,000/-	Confirmed
8.	Medical Bills	Rs.38,567.83/-	Rs.38,567.83/-	Confirmed
9.	Future Medical Expenses	Rs.10,000/-	Rs.10,000/-	Confirmed
	Total Compensation	Rs.6,03,567.83/- @ Rs.6,03,568/-	Rs.6,63,567.83/- @ Rs.6,63,568/-	Enhanced by Rs.60,000/-

12. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.6,03,568/- is hereby enhanced to Rs.6,63,568/- [Rupees Six Lakhs Sixty Three Thousand Five Hundred and Sixty Eight only] along with interest at the rate of 7.5% per



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annum from the date of filing of Claim Petition till the date of deposit, excluding the default period, if any. The Insurance Company is directed to deposit the amount now 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 the credit of M.C.O.P.No.2391 of 2016 on the file of the Motor Accidents Claims Tribunal, I Additional Subordinate 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 withdrawn. The Tribunal shall disburse the amount now awarded by this Court by directly giving credit to the Savings Bank Account of the claimant. There shall be no order as to costs in the present appeal.

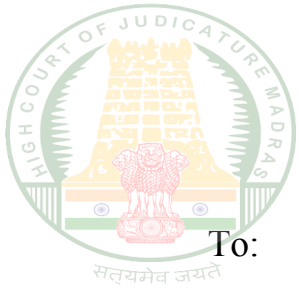
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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation Case: Yes/No



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To:

1. The I Additional Subordinate Judge,
Motor Accident Claims Tribunal,
Cuddalore.
2. The Section Officer,
V.R.Section,
High Court,
Chennai.

K. RAJASEKAR, J.

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