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C.M.A.No.1871 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.No.1871 of 2022

Sivashanmugam

.. Appellant

Vs.

1. R.Dhandapani

2. The New India Assurance Company Limited,
Represented by its Branch Manager,
F6, Visitors Road, Block-2, Neyveli-607801.

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Judgment and Decree dated 09.03.2021 made in M.C.O.P.No.833 of 2016, on the file of the Motor Accident Claims Tribunal, Special District Judge, Dharmapuri.

For Appellant	:	Mr.D.Rameshkumar
For Respondents	:	No appearance (R1) Mr.P.Sankaranarayanan (R2)

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 09.03.2021 made in



M.C.O.P.No.833 of 2016 on the file of the Motor Accident Claims Tribunal,
Special District Judge, Dharmapuri.

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2.The appellant is the claimant in M.C.O.P.No.833 of 2016 on the file of the Motor Accident Claims Tribunal, Special District Judge, Dharmapuri. He filed the above said claim petition, claiming a sum of Rs.1,49,000/- as compensation on account of the injuries sustained by him in an accident that took place on 21.04.2016.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the rider of the two wheeler (Hero Shine) bearing Registration No.TN-28 BY 6282, belonging to the first respondent herein and directed the 2nd respondent-Insurance Company to pay a sum of Rs.1,49,000/- as compensation to the appellant.

4.Not being satisfied with the amounts awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.



5. The learned counsel appearing for the appellant contended that at the time of accident, the claimant was working as a Special Officer in M.R.K. Co-Operative Sugar Mills and was earning a sum of Rs.13,093/- per month and in support of the same he has filed Ex.P9-Salary Certificate, before the Tribunal. He further submitted that due to the aforesaid accident, the appellant sustained head injury, fracture and multiple injuries and taken treatment as in-patient and out-patient in various hospitals and therefore he was not in a position to go for job for a period of four months, but the Tribunal failed to consider the same and not awarded any compensation towards loss of income and therefore requested this Court to grant compensation towards loss of income for four months. He further amount of compensation awarded towards other heads are also very low and hence prayed for enhancement of compensation.

6. In reply, the learned counsel appearing for the 2nd respondent- Insurance Company submitted that the Tribunal on considering the oral and documentary evidence has awarded reasonable compensation and therefore the same does not warrant interference, however he fairly admitted that no compensation was awarded towards loss of income during treatment period by the Tribunal.



7. Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the 2nd respondent-Insurance Company and perused the entire materials on record.

8. It is the case of the appellant that due to the injuries sustained by the Claimant he took treatment in various hospitals as in-patient and out-patient and therefore not in a position to go for job for a period of four months, but the Tribunal has not considered the same and not awarded any compensation towards loss of income during treatment period.

9. Considering the age of the claimant, nature of injuries and the fact that he was earning a sum of Rs.13,093/- per month at the time of accident as per Ex.P9-Salary Certificate, this Court deems it fit to fix a sum of Rs.13,000/- as monthly income of the injured and grant compensation towards loss of income during treatment period i.e., for four months Accordingly a sum of Rs.52,000/- (13000x4) is awarded under the head loss for income during treatment period.



10. The amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is re-determined as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability at 15% (15x5000)	75,000/-	75,000/-	Confirmed
2.	Pain and Suffering	20,000/-	20,000/-	Confirmed
3.	Medical Expenses	9,000/-	9,000/-	Confirmed
4.	Extra Nourishment	20,000/-	20,000/-	Confirmed
5.	Transport Charges	5,000/-	5,000/-	Confirmed
6.	Loss of amenities	10,000/-	10,000/-	Confirmed
7.	Attender Charges	10,000/-	10,000/-	Confirmed
8.	Loss of Income during treatment period	52,000/-	52,000/-	Granted
	Total	Rs.1,49,000/-	Rs.2,01,000/-	Enhanced by Rs.52,000/-

11. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,49,000/- is hereby enhanced to Rs.2,01,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The 2nd respondent- Insurance Company is directed to deposit the award amount now determined



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.833 of 2016 on the file of the Motor Accident Claims Tribunal, (Special District Judge), Dharmapuri. On such deposit being made, the Tribunal is directed to transfer the Award amount directly to the Bank account of the appellant/claimant through RTGS, within a period of **three weeks** thereafter. The claimant is directed to pay necessary Court fee, if any on the enhanced compensation. However, it is made clear that if there is any delay in filing the C.M.A. and in case of any earlier order by this Court, depriving interest for the period of delay in question, the interest portion for that period should be excluded for the purpose of granting interest. No costs.

12.01.2024

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Index : Yes / No

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To

1. The New India Assurance Company Limited,
Represented by its Branch Manager,
F6, Visitors Road, Block-2, Neyveli-607801.
- 2 . The Motor Accident Claims Tribunal,
Special District Judge, Dharmapuri.
- 3.The Section Officer,
VR Section,
High Court,
Madras.



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KRISHNAN RAMASAMY, J.

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