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C.M.A.No.2349 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.2349 of 2021

P.Sarathkumar
(cause title accepted vide Court
order dt.28/1/2020 made in
CMP.23968 & 23973 of 2019 in
CMA SR 78570 of 2019 [VMVJ]) ... Appellant

Vs.

1.K.Indirani

2.M/s.Royal Sundaram Alliance Insurance Company Ltd.,
Bus Plaza, 3rd Floor,
5G, Lawrance Road,
Cantonement, Trichy – 1. ... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow the appeal and to enhance the award dated 18.07.2014 made in M.C.O.P.No.367 of 2012 on the file of Motor Accident Claims Tribunal and Sub Judge, Perambalur.

For Appellant : Mr.C.Thangaraju
For Respondents : R1 – No Appearance
Mr.K.Vinod for R2



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J U D G M E N T

This appeal has been filed against the judgment and decree dated 18.07.2014 passed by the Motor Accidents Claims Tribunal and Sub Judge, Perambalur, in M.C.O.P.No.367 of 2012.

2.The learned counsel appearing for the appellant submitted that on 01.06.2012, at about 5.15 p.m., the appellant was riding his bicycle on the Uppiliyapuram Main Road from North to South on the extreme left side of the road near Thirumalai Timber Deppo. At that time, a car bearing Registration No.TN – 48/Y – 3210 belonging to the first respondent and insured with the second respondent came in the same direction in a rash and negligent manner and dashed against the bicycle, due to which, the appellant sustained injuries. Thereafter, the appellant filed claim petition before the Tribunal claiming compensation of Rs.5 Lakhs. After adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.2,20,758/- rounded to Rs.2,20,760/- with interest at the rate of 7.5% p.a. from the date of petition till the date of realization and costs and directed the second respondent to deposit the compensation. Aggrieved by the same, the appellant claimant has filed this appeal for enhancement in



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compensation.

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3.The learned counsel appearing for the appellant further submitted that the Doctor assessed the disability of the appellant as 41%, however, the Tribunal fixed the disability of the claimant as 35% and awarded a meagre amount as compensation for disability and further submitted that the compensation awarded by the Tribunal under the other heads are also meagre and prayed for enhancement in compensation.

4.The learned counsel appearing for the second respondent Insurance Company submitted that the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference.

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

6.This appeal has been filed only questioning the quantum of compensation awarded by the Tribunal. Hence, there is no need for



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any discussion with regard to negligence aspect.

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7.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.1,05,000/- for disability, Rs.18,000/- for loss of income, Rs.5,000/- for transportation, Rs.32,758/- for medical expenses, Rs.5,000/- for attender charges, Rs.50,000/- for pain and sufferings, Rs.5,000/- for extra nourishment and arrived at a total compensation of Rs.2,20,758/- with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

8.The Doctor has assessed the disability of the injured claimant as 41%. This Court fix the disability as 40%. Hence, the amount awarded for disability works out to Rs.1,20,000/- [40% X Rs.3,000/- = Rs.1,20,000/-].

9.The amount awarded under the heads medical expenses and pain and sufferings, in the opinion of this Court are just and reasonable and the same are confirmed. The amount awarded under the head loss of income, in the opinion of this Court is not necessary and the same is deleted. The amount awarded under the other heads, in the opinion of this Court are low and this Court is inclined to



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enhance the amount awarded under the other heads. Accordingly, the amount

awarded for extra nourishment is enhanced to Rs.20,000/- from Rs.5,000/-, the amount awarded for transportation is enhanced to Rs.10,000/- from Rs.5,000/-, the amount awarded for attender charges is enhanced to Rs.10,000/- from Rs.5,000/-.

10. Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Disability	Rs.1,05,000/-	Rs.1,20,000/-
2.	Loss of income	Rs. 18,000/-	---
3.	Pain and sufferings	Rs. 50,000/-	Rs. 50,000/-
4.	Extra nourishment	Rs. 5,000/-	Rs. 20,000/-
5.	Transportation	Rs. 5,000/-	Rs. 10,000/-
6.	Attender charges	Rs. 5,000/-	Rs. 10,000/-
7.	Medical expenses	Rs. 32,758/-	Rs. 32,758/-
	Total	Rs.2,20,758/-	Rs.2,42,758/-

11. The appellant claimant is entitled to total compensation of Rs.2,42,758/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.



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12.The civil miscellaneous appeal is partly allowed. The judgment and decree dated 18.07.2014 passed by the Motor Accidents Claims Tribunal and Sub Judge, Perambalur, in M.C.O.P.No.367 of 2012, is modified to the above extent.

13.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, less the amount if any, already deposited. On such deposit being made, the appellant/ claimant is permitted to withdraw the modified/ enhanced award 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.

14.The appellant/ claimant shall not be entitled to any interest for the period of delay, if any, in filing/ representing the appeal. The appellant/ claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accidents Claims Tribunal and Sub Judge, Perambalur, shall disburse the compensation amount upon production of certified copy showing proof



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of payment of Court fee by the appellant/ claimant.

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15.The civil miscellaneous appeal is partly allowed. No costs.

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal
and Sub Judge, Perambalur.



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M.DHANDAPANI,J.
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