



C.M.A.No.2607 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Reserved on 11.01.2024	Pronounced on 09.02.2024
---------------------------	-----------------------------

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2607 of 2021

Ravi

...Appellant

Vs.

1.M.Arivazhagan
2.New India Assurance Company Limited,
Motor Third Party claims office,
No.232, Bombay Mutual Building,
6th Floor, NSC Bose Road,
Chennai - 97.

...Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 17.02.2021 made in M.C.O.P.No.6646 of 2016 on the file of the Motor Accident Claims Tribunal [VI Court of Small Causes], Chennai.

For Appellant	: Mr.Nalliyappan
For R1	: No appearance
For R2	: Mr.C.Ramesh Babu



C.M.A.No.2607 of 2021

WEB COPY

J U D G M E N T

The claim petitioner is the appellant herein seeking enhancement of compensation awarded in M.C.O.P.No.6646 of 2016 on the file of the Motor Accident Claims Tribunal Judge /VI Court of Small Causes, Chennai.

2. For the sake of convenience, the parties are referred to as per their litigating status before the trial Court.

3. The factum of accident, manner of accident, rash and negligent on the part of the driver of the offending vehicle and vehicle being insured with the second respondent/Insurance company are not in dispute. Accordingly, the finding rendered by the Trial Court with regard to negligence are hereby confirmed.

4. The claim petitioner filed petition seeking compensation for the injuries sustained in the road transport accident happened on 24.09.2016.



C.M.A.No.2607 of 2021

WEB COPY

5. Before the Tribunal, the Insurance Company filed a counter specifically denying the manner of the accident and also stated that the driver of the vehicle does not have valid driving license and the injured/claim petitioner has invited the accident.

6. During the trial, the injured/claim petitioner was examined as P.W.1 and marked Exs.P1 to P8 on his side. P.W.2 Dr.Balachander has initially issued Death Certificate however after directions of this Court, the claim petitioner/injured was referred to Medical Board for the assessment of permanent disability and the same is marked as Ex.C1. The Medical Board had assessed the disability of the claim petitioner as 10% of permanent disability and the claim petitioner had sustained fracture in the femur bone near hip and there is shortening of left leg by 1 cm.

7. Considering that the claim petitioner is an auto driver and he has not filed any salary certificate or he has not examined any person who said to have engaged him for his auto as a driver. Hence, the trial court has fixed Rs.10,000/- per mensem as notional income.



C.M.A.No.2607 of 2021

WEB COPY

8. At the time of the accident, the age of the claim petitioner is 50. As per the Aadhar card, his date of birth is mentioned as 01.01.1965 and date of the accident is 24.09.2016 and therefore, the Tribunal had fixed the age of the claim petitioner as 51 years.

9. As per the decision of the Apex Court in the case of **[Sarala Verma and Others Vs. Delhi Transport Corporation and another]**, multiplier '11' is to be adopted. Accordingly, for the loss of income earning capacity a sum of Rs.10,000/- is fixed. Hence, the Tribunal has awarded a sum of Rs.1,32,000/- (10,000x12x11x10%) as 'functional disability' and the same is hereby confirmed.

10. Taking into consideration the period of treatment as in-patient in hospital and in the interest of justice, this Court awarding a sum of Rs.15,000/- for 'attender charges'.



C.M.A.No.2607 of 2021

WEB COPY

11. Furthermore, considering the nature of injuries, the compensation awarded by the Tribunal towards 'Extra Nourishment' and 'Loss of amenities' are hereby enhanced to Rs.20,000/- and Rs.10,000/- respectively. The compensation awarded by the Tribunal is Rs.15,000/- towards 'pain and sufferings', Rs.1,000/- towards 'Damage to cloths' and Rs.1401.50/- towards 'Medical Expenses' are intact and hence the same are confirmed.

12. The break-up details of the compensation is as under :

<i>Sl. No</i>	<i>Heads under which the amount is awarded</i>	<i>Amount awarded by the Tribunal – Rs.</i>	<i>Amount awarded by this Court – Rs.</i>
1.	Functional Disability	Rs.1,32,000/-	Rs.1,32,000/-
2.	Pain and Sufferings	Rs. 15,000/-	Rs. 15,000/-
3.	Loss of amenities	Rs. 10,000/-	Rs. 15,000/-
4.	Extra nourishment	Rs. 10,000/-	Rs. 20,000/-
5.	Attender charges	-----	Rs. 15,000/-
6.	Medical Expenses	Rs. 1,401.50/-	Rs.1,401.50/-
7.	Damage to cloths	Rs. 1,000/-	Rs. 1,000/-
	Total	Rs.1,69,401.50 Rounded off Rs.1,70,000/-	Rs.1,99,401.50/- Rounded off Rs.2,00,000/-

In total, the claim Petitioner is entitled to a sum of Rs.2,00,000 (**Rupees Two lakhs only**).



C.M.A.No.2607 of 2021

WEB COPY

13. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the award amount from **Rs.1,70,000/- to 2,00,000/-** to the extent indicated above, along with 7.5% interest per annum. No costs.

(ii) the 2nd Respondent/New India Assurance Company Limited is directed to deposit the enhanced award amount before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) on such deposit being made, the claim Petitioner/Appellant is permitted to withdraw the entire enhanced award amount with accrued interest and costs, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) the claim Petitioner/Appellant is directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

09.02.2024

nvi



C.M.A.No.2607 of 2021

WEB COPY

Index : Yes/No

Internet : Yes/No

Neutral Citation: Yes/No

Speaking Order: Yes/no

To

1. The Motor Accident Claims Tribunal
VI Court of Small Causes, Chennai.
2. The Section Officer,
V.R.Section, High Court of Madras, Chennai.



WEB COPY



C.M.A.No.2607 of 2021

RMT.TEEKAA RAMAN.J.

nvi

Judgment made in
C.M.A.No.2607 of 2021

Dated:09.02.2024