



C.M.A.No.3066 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 29.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3066 of 2021

S.Chezhan

...Appellant

Vs.

1.G.Nithiyanandham

2.The Reliance General Insurance Company Ltd.,

Third Party Claim Cell,

No.6, 6th Floor, Haddows Road,

Numgambakkam, Chennai – 600 006.

...Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 08.12.2020 made in M.C.O.P.No.1065 of 2011 on the file of the Motor Accident Claims Tribunal, (II Additional District and Sessions Court) at Tiruvallur @ Poonamallee.



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For Appellant : Mr.K.Varadha Kamaraj
For Respondents : Mrs.C.Bhuvana Sundari for R2
R1 – NRN

J U D G M E N T

This appeal is filed by the appellant challenging the judgment and decree passed by the Motor Vehicle Accidents Claims Tribunal, (II Additional District and Session Court) at Tiruvallur @ Poonamallee in M.C.O.P.No.1065 of 2011 dated 08.12.2020.

2.For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.

3.The petitioner is the claimant, the first respondent is the owner of the vehicle and the second respondent is the Insurance Company before the Tribunal.

4.The brief facts of the case are as follows:



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On 29.9.2011, at about 08.10 hours, while the petitioner was travelling as a rider and his daughter as a pillion rider in a scooty bearing Registration No.TN-22-BY-1176 from Vandalur to Tambaram G.S.T road near Irumbuliyur, a van bearing Registration No.TN-21-R-9049 came in a rash and negligent manner hit behind the scooty of the petitioner and caused the accident. As a result of which, the petitioner and his daughter sustained multiple grievous injuries. A criminal case was registered in Crime No.1645 of 2011 for offence under Sections 279 & 337 of IPC by the Police. The claimants filed a claim petition before the Tribunal in M.C.O.P.No.1065 of 2011, the Tribunal has awarded a sum of Rs.2,60,126/- as compensation. Challenging the same, the present appeal has been filed.

5.Learned counsel appearing for the appellant submitted that the compensation awarded by the Tribunal is very meagre and requested this Court to enhance the compensation. Hence, he prayed to allow the appeal.



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6.Learned counsel appearing for the second respondent/Insurance Company submitted that the compensation awarded by the Tribunal is just and reasonable and hence, he prayed for dismissal of the appeal.

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

8.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only seeking enhancement of compensation. Hence, there is no need for any discussion with regard to negligence.

9.Before the Tribunal, the petitioner was examined as PW1 and on the side of the petitioners, 12 documents were marked as Exs.P1 to P12. On the side of the Respondents, no witness was examined and no document was marked.



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10.The petitioner was examined by the Medical Board, the Medical Board has assessed the disability of the petitioner at 30% and the Tribunal has awarded Rs.3,000/- per percentage of disability i.e. $\text{Rs.3,000} \times 30\% = \text{Rs.90,000/-}$.

11.The Tribunal after elaborately discussing the factual aspects awarded a sum of Rs.10,000/- for transportation and nourishing food, Rs.1,500/- for attender charges, Rs.68,626/- for medical expenses, Rs.60,000/- for pain and suffering, Rs.90,000/- for disability and Rs.30,000/- for loss of amenities arrived at a total compensation of Rs.2,60,126/- with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

12.Perusal of records reveal that the deceased was working as Assistant Training Officer in Government ITI, Cuddalore and was earning a sum of Rs.62,780/- per month.



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13.The amount awarded under the heads medical expenses and disability, in the opinion of this Court is just and reasonable and the same is confirmed. The amount awarded under the heads transportation & nourshing food and attender charges, in the opinion of this Court is very meagre and this Court is inclined to enhance the amount awarded under the said heads. Accordingly, the amount awarded under the heads transportation & nourshing food and attender charges are enhanced to Rs.30,000/- and Rs.10,000/- respectively. The amount awarded under the head pain and suffering, in the opinion of this Court is excessive and this Court is inclined to reduce the amount awarded under the said head. Accordingly, the amount awarded under the head pain and suffering is reduced to Rs.40,000/- from Rs.60,000/-.

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

S.No.	Description	Amount awarded by Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1.	Transportation and	10,000	30,000



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	nourishing food		
2.	Attender charges	1,500	10,000
3.	Medical expenses	68,626	68,626
4.	Pain & suffering	60,000	40,000
5.	Disability	90,000	90,000
6.	Loss of amenities	30,000	50,000
	Total	Rs.2,60,126/-	Rs.2,88,626/-

15.The appellant is entitled to a sum of Rs.2,88,626/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

16.The judgment and decree passed by the Motor Accident Claims Tribunal/II Additional District and Sessions Court, Tiruvallur @ Poonamallee in M.C.O.P.No.1065 of 2011 dated 08.12.2020, is modified to the above extent.

17.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. On such deposit being made, the appellant is permitted to withdraw



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along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal.

18.The appellant/claimant shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The appellant/claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accident Claims Tribunal/II Additional District and Sessions Court, Tiruvallur @ Poonamallee shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellant/ claimant.

19.The Civil Miscellaneous Appeal is partly allowed with the above terms. No costs.

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Index: Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To

- 1.The Motor Accidents Claims Tribunal,
(II Additional District and Sessions Court)
at Tiruvallur @ Poonamallee.
- 2.The Section Officer,
VR Section,
High Court of Madras, Chennai – 600 104.



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M.DHANDAPANI, J.

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