



C.M.A.No.3435 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3435 of 2021

Ponnusamy

... Appellant

Vs.

1.Manivannan
2.Eswaramoorthy

3.The New India Assurance Company Limited,
D.No.26, Tlus Complex, II Floor,
27/4, Sankari Road,
Tiruchengode – 637 211.

4.The New India Assurance Company Limited,
Branch Office: Amman Complex, II Floor,
1360, E.V.N. Road,
Erode – 638 011.

5.Suresh

6.The New India Assurance Company Limited,
D.No.8/15, Teachers Colony,
Near Pallavan Grama Bank,
Mallasamudram Post,
Tiruchengode Taluk – 637 503.

7.The New India Assurance Company Limited,
Branch Office: Amman Complex, II Floor,
1360, E.V.N. Road,
Erode – 638 011.

... Respondents



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Prayer:

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Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow the above civil miscellaneous appeal and enhance the award in the judgment and decree dated 10.02.2020 made in M.A.C.T.O.P.No.618 of 2018 on the file of the Motor Vehicle Accident Claims Tribunal/ Special Subordinate Judge Court, Erode.

For Appellant : Mr.T.S.Arthanareeswaran
For Respondents : R1 & R2 – No Appearance
Mr.J.Michael Visuvasam
for R3, R4, R6 & R7
R5 – Disd. as abated
vide order dt.24/7/24

J U D G M E N T

This appeal has been filed against the judgment and decree dated 10.02.2020 passed by the Motor Accidents Claims Tribunal/ Special Subordinate Judge Court, Erode, in M.C.O.P.No.618 of 2018.

2.The learned counsel appearing for the appellant submitted that on 07.02.2018, at about 10.30 p.m., the appellant was travelling in the car bearing Registration No.TN-28 AM-9681, owned by the fifth respondent and insured with the respondents 6 and 7 in the Morpalayam – Thiruchengode near Vettukkattukuttai Bridge in North to South direction. At that time, a lorry bearing Registration No.TN-34 R-



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2360, owned by the second respondent and insured with the respondents 3 and 4 driven by its driver/ first respondent in a rash and negligent manner came in the opposite direction and dashed against the car, due to which, the appellant sustained injuries.

3.The learned counsel appearing for the appellant further submitted that thereafter, the injured claimant/ appellant filed claim petition before the Tribunal, claiming compensation of Rs.15 Lakhs. After adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.2,37,000/- with interest at the rate of 7.5% p.a. from the date of petition till the notice of deposit given to the appellant and proportionate costs and directed the respondents 3, 4, 6 and 7 to deposit the compensation. Aggrieved by the same, the appellant claimant has filed this appeal for enhancement in compensation.

4.The learned counsel appearing for the appellant further submitted that the appellant has filed this appeal questioning the quantum of compensation awarded by the Tribunal. The learned counsel further submitted that the accident is of the year 2018, however, the Tribunal awarded only Rs.3,000/- per percentage of disability, which is not sustainable one and further submitted that the



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compensation awarded under the other heads also are meagre.

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5.The learned counsel appearing for the respondents 3, 4, 6 and 7 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.

6.Heard the learned counsel appearing for the appellant claimant as well as the learned counsel appearing for the respondents 3, 4, 6 and 7 Insurance Company and perused the materials available on record.

7.This appeal has been filed only questioning the quantum of compensation awarded by the Tribunal. Hence, there is no need for any discussion with regard to negligence aspect.

8.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.80,000/- for loss of earnings, Rs.10,000/- for transport to Hospital, Rs.8,000/- for extra nourishment, Rs.12,000/- for attender charges, Rs.2,000/- for damages for clothes and articles,



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Rs.80,000/- for pain and sufferings, Rs.45,000/- for permanent disability and loss of earning power and arrived at a total compensation of Rs.2,37,000/- with interest at the rate of 7.5% p.a. from the date of petition till the notice of deposit given to the appellant.

9.The Medical Board has assessed the disability of the injured claimant as 15%. At the relevant point of time Rs.8,000/- per percentage of disability was awarded. Hence, amount awarded for permanent disability and loss of earning power works out to Rs.1,20,000/- [15% X Rs.8,000/- = Rs.1,20,000/-].

10.The amount awarded under the head extra nourishment, in the opinion of this Court is low and this Court is inclined to enhance the amount awarded under the said head. Accordingly, the amount awarded for extra nourishment is enhanced to Rs.20,000/- from Rs.8,000/-. The amount awarded under the heads damage to clothes and articles, loss of earnings, attender charges, pain and sufferings, in the opinion of this Court are high and this Court is inclined to reduce the amount awarded under the said heads. Accordingly, the amount awarded for damage to clothes and articles is reduced to Rs.1,000/-



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from Rs.2,000/-, the amount awarded for loss of earnings is reduced to Rs.30,000/- from Rs.80,000/-, the amount awarded for attender charges is reduced to Rs.10,000/- from Rs.12,000/-, the amount awarded for pain and sufferings is reduced to Rs.60,000/- from Rs.80,000/-. The amount awarded under the head transport to hospital, in the opinion of this Court is just and reasonable and the same is confirmed.

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

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Loss of earnings	Rs. 80,000/-	Rs. 30,000/-
2.	Pain and sufferings	Rs. 80,000/-	Rs. 60,000/-
3.	Extra nourishment	Rs. 8,000/-	Rs. 20,000/-
4.	Transport to hospital	Rs. 10,000/-	Rs. 10,000/-
5.	Damage for clothes and article	Rs. 2,000/-	Rs. 1,000/-
6.	Attender charges	Rs. 12,000/-	Rs. 10,000/-
7.	Permanent Disability and loss of earning power	Rs. 45,000/-	Rs.1,20,000/-
	Total	Rs.2,37,000/-	Rs.2,51,000/-

12. The appellant claimant is entitled to total compensation of Rs.2,51,000/- along with interest at the rate of 7.5% p.a. from the



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date of petition till the notice of deposit given to the appellant.

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13.The civil miscellaneous appeal is partly allowed. The judgment and decree dated 10.02.2020 passed by the Motor Accidents Claims Tribunal/ Special Subordinate Judge Court, Erode, in M.C.O.P.No.618 of 2018, is modified to the above extent.

14.The respondents 3, 4, 6 and 7 Insurance Company are 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 costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal.

15.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/ Special Subordinate Judge Court, Erode, shall disburse the compensation amount upon production of certified copy



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showing proof of payment of Court fee by the appellant/ claimant.

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M.DHANDAPANI,J.
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16.The civil miscellaneous appeal is partly allowed. No costs.

02.12.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal/
Special Subordinate Judge Court, Erode.

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