



C.M.A.No.3071 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2024

CORAM:

THE HON'BLE MR.JUSTICE **M.DHANDAPANI**

C.M.A.No.3071 of 2024

B.Christopher

...Appellant

Vs.

1. J.Santhi

2. The Manager,
Bajaj Allianz General Insurance Company Limited,
Old No.276 & 277, New No.497 & 498,
Isana Kattima Building, 5th Floor,
Poonamalle High Road, Chennai – 600 106.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, challenging the order made in MCOP.No.3554 of 2018 dated 29.02.2024 on the file of the Motor Accident Claims Tribunal/Special Sub Court, Cuddalore.

For Appellant : M/s.Ramya V.Rao

For Respondents : Mrs.C.Harini, for
M/s.M.B.Gopalan Associates, for R2
: Notice dispensed with, for R1



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JUDGMENT

WEB COPY This Civil Miscellaneous appeal has been filed challenging the award and decree passed in MCOP.No.3554 of 2018 dated 29.02.2024 on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Cuddalore.

2. Mrs.C.Harini, learned counsel takes notice on behalf of the 2nd respondent. In view of the consent expressed by the learned counsel on either side, this appeal is taken up for final disposal at the admission stage itself.

3. The case of the claimant is that, on 26.04.2018 at about 10.30 am., when the appellant was waiting with his motor cycle bearing Regn.No.TN-31-A-6908 on the extreme left side of the Cuddalore to Vridhachalam Main road, at that time, a Volks Wagon car bearing Regn.No.TN-54-F-0003 owned by the 1st respondent insured with the 2nd respondent driven by its driven came in a rash and negligent manner and dashed against the appellant's two wheeler, due to which, the appellant sustained grievous injuries and got admitted in the hospital. Thereby, the appellant filed a claim



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petition in MCOP.No.3554 of 2018 claiming a compensation of Rs.50,00,000/-. Before the tribunal, the claimant examined himself as P.W.1 and marked exhibits P.1 to P.13 and on the side of respondents, two witnesses viz., R.W.1 and R.W.2 were examined and exhibits R.1 to R.3 were marked and Disability certificate was marked as court document Ex.C.1. After trial, the Tribunal, on appreciation of oral and documentary evidence, though came to a conclusion that the accident had taken place solely due to the rash and negligent driving on the part of the driver of the 1st respondent vehicle, however, awarded a meagre compensation of Rs.12,84,385/-. Aggrieved with the said order, the appellant has come up with this appeal, seeking enhancement of the compensation fixed by the tribunal.

4. Learned counsel for the appellant submitted that, the above said accident happened solely due to the rash and negligent driving on the part of the driver of the 1st respondent and at the time of accident, the appellant was aged about 36 years and was working as a Heavy Vehicle driver in Neyveli Lignite Corporation Limited and in addition to that, he was also training



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Junior Football players as a Coach and was earning a sum of Rs.20,000/- and due to the injuries sustained by him in the above said accident, the appellant sustained grievous Crush injuries in Left forefoot and is unable to continue his avocation which he was doing earlier and the medical board also assessed the disability suffered by the appellant as 43% functional disability. Though, the tribunal had adapted multiplier method, however fixed the notional income at Rs.9,000/-, which is very meagre and the same is contrary to the ratio laid down by the Hon'ble Apex court in catena of decisions and thereby, the same has to be interfered with and the compensation awarded under other heads are also on lower side and the same has to necessarily be enhanced. Accordingly, she prayed for appropriate orders.

5. Per contra, the learned counsel appearing on behalf of the 2nd respondent submitted that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which is already on the higher side and the same does not require any further enhancement. Accordingly, he prays for dismissal of the appeal.



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WEB COPY 6. Heard learned counsel on either side and perused the material documents placed on record.

7. The factum and manner of the accident is not in dispute and therefore, this Court is not entering into the said aspect.

8. On a perusal of the materials available on record, particularly the impugned award and the disability certificate Ex.C.1, it is evident that, the accident is of the year 2018 and at the time of accident the appellant was aged about 36 years and was working as a Heavy Vehicle driver in Neyveli Lignite Corporation Limited and due to the injuries sustained by him in the above said accident, he suffered 43% functional disability and the appellant being a Driver by profession, the extent of the disability would really hamper the appellant from discharging his work. Therefore, considering the said fact that the Tribunal had adopted multiplier method. Insofar as the income of the appellant fixed by the tribunal is concerned, though it is the claim of the appellant that, he was earning a sum of Rs.20,000/- per month,



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however, in order to prove the income, the appellant has not produced any document before the Tribunal. Hence, in the absence of any proof, the Tribunal has fixed the monthly income of the appellant as Rs.9,000/-, which cannot be said to be erroneous and the compensation and the procedure adopted by the Tribunal does not warrant any interference of this Court. Further, the compensation awarded under other heads are just and reasonable. Accordingly, the said compensation is confirmed.

9. For the reasons aforesaid, this Appeal stands dismissed, confirming the award passed by the tribunal in MCOP.No.3554 of 2018 dated 29.02.2024 and the 2nd respondent-insurance company is directed to deposit the compensation of **Rs.12,84,385/-** awarded by the tribunal to the credit of MCOP.No.3554 of 2018 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less the amount, if any, already deposited, within a period of six weeks (6) from the date of receipt of a copy of this judgment, if not already deposited. On such deposit being made, the Tribunal is directed to



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transfer the said amount to the claimant directly to his bank account through RTGS within a period of two (2) weeks thereafter. It is underscored that the appellant is not entitled to any interest for the default period, if any. There shall be no order as to costs in this appeal.

27.11.2024

skt

NCC : Yes/No
Index : Yes/No
Speaking order : Yes/No

To:

The Motor Accident Claims Tribunal/Special Sub Court,
Cuddalore.



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M.DHANDAPANI, J.

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