



WEB COPY



C.M.A.No.3016 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3016 of 2024

Selvakumar (Depressed Mind)
Represented by K.Poovizhi

... Appellant

Vs.

1.P.Prakasam

2.The Branch Manager

ICICI Lombard General Insurance Company Limited,
Having its Office at
No.18, First Floor,
Srivari AVS Towers,
Newpet, M.G.Road,
Hosur,
Krishnagiri District – 635 109.

... Respondents

Prayer:

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 judgment and decree dated 02.02.2024 made in M.C.O.P.No.175 of 2020 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Hosur, Krishnagiri District and allow the civil miscellaneous appeal.

For Appellant : Mr.M.Sivakumar
For Respondents : Mrs.R.Sree Vidhya for R2



C.M.A.No.3016 of 2024

J U D G M E N T

WEB COPY

This appeal has been filed against the judgment and decree dated 02.02.2024 passed by the Motor Accidents Claims Tribunal, Additional District Judge, Hosur, Krishnagiri District, in M.C.O.P.No.175 of 2020.

2.The learned counsel appearing for the appellant submitted that on 28.05.2019, at about 00.30 hours, the appellant after attending his duty returned to his house from SIPCOT I Hosur in the two wheeler bearing Registration No.TN 83 T 1028 owned by the first respondent and insured with the second respondent and he travelled as a pillion rider and due to the rash and negligent driving of the rider of the motorcycle, in RC Church Ring Road – Muneeswar Ring Road near Amman Bakery the rider was not able to control the vehicle and it dashed against the car which was coming in the opposite direction, 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.40 Lakhs. After adjudication, the Motor Accidents Claims Tribunal awarded a



C.M.A.No.3016 of 2024

sum of Rs.8,11,673/- with interest at the rate of 7.5% p.a. from the date of petition till the date of realization and proportionate costs and directed the second respondent 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 though the Medical Board assessed the disability of the appellant as 50%, the Tribunal fixed the disability of the appellant as 20% and awarded meagre compensation for disability which is not sustainable one and further submitted that the compensation awarded under the other heads also are meagre.

5.The learned counsel appearing for the second respondent Insurance Company submitted that though the Medical Board assessed the disability of the appellant as 50%, there is no amputation or nervous injury and the appellant sustained only head injury and fracture, however, the Tribunal awarded compensation for disability by applying multiplier method, which is not sustainable and



C.M.A.No.3016 of 2024

further submitted that the compensation awarded under the other heads are just and reasonable and warrants no interference.

6.Heard the learned counsel appearing for the appellant claimant as well as the learned counsel appearing for the second respondent 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.4,08,000/- for disability, Rs.5,000/- for transportation expenses, Rs.5,000/- for extra nourishment, Rs.3,73,673/- for medical expenditure, Rs.5,000/- for future medical expenditure, Rs.5,000/- for pain and sufferings, Rs.5,000/- for loss of amenities, Rs.5,000/- for attender charges and arrived at a total compensation of Rs.8,11,673/- with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.



C.M.A.No.3016 of 2024

9.This Court perused the disability certificate and it reveals that the appellant sustained partial permanent disability of 50%. Hence, the Tribunal ought to have followed the decision of the Hon'ble Apex Court reported in *(2011) 1 SCC 343 [Raj Kumar Vs. Ajay Kumar and Ors.]*, however, without following the guidelines issued in the said decision, the Tribunal mechanically passed the award by applying multiplier method, which is not sustainable one.

10.The Medical Board assessed the disability of the injured claimant as 50% disability. At the relevant point of time Rs.8,000/- per percentage of disability was awarded. Hence, the amount awarded for disability works out to Rs.4,00,000/- [50% X Rs.8,000/- = Rs.4,00,000/-]. This Court is of the opinion that some amount has to be awarded for loss of income during the treatment period. Accordingly, this Court awards a sum of Rs.20,000/- for loss of income during the treatment period.

11.The amount awarded under the heads pain and sufferings, extra nourishment, transportation expenses, attender charges, in the opinion of this Court are low and this Court is inclined to enhance the amount awarded under the said heads. Accordingly, the amount



C.M.A.No.3016 of 2024

awarded for pain and sufferings is enhanced to Rs.75,000/- from Rs.5,000/-, the amount awarded for extra nourishment is enhanced to Rs.25,000/- from Rs.5,000/-, the amount awarded for transportation expenses 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/-. The amount awarded under the heads loss of amenities and for future medical expenditure, in the opinion of this Court are not necessary and the same are deleted. The amount awarded under the head medical expenditure, in the opinion of this Court is just and reasonable and the same is confirmed.

12.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.4,08,000/-	Rs.4,00,000/-
2.	Pain and sufferings	Rs. 5,000/-	Rs. 75,000/-
3.	Extra nourishment	Rs. 5,000/-	Rs. 25,000/-
4.	Transportation expenses	Rs. 5,000/-	Rs. 10,000/-
5.	Attender charges	Rs. 5,000/-	Rs. 10,000/-
6.	Future medical expenditure	Rs. 5,000/-	---
7.	Medical expenditure	Rs.3,73,673/-	Rs.3,73,673/-
8.	Loss of amenities	Rs. 5,000/-	---
9.	Loss of income during treatment period	---	Rs. 20,000/-



C.M.A.No.3016 of 2024

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
	Total	Rs.8,11,673/-	Rs.9,13,673/-

13.The appellant claimant is entitled to total compensation of Rs.9,13,673/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

14.The civil miscellaneous appeal is partly allowed. The judgment and decree dated 02.02.2024 passed by the Motor Accidents Claims Tribunal, Additional District Judge, Hosur, Krishnagiri District, in M.C.O.P.No.175 of 2020, is modified to the above extent.

15.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



C.M.A.No.3016 of 2024

the Tribunal.

WEB COPY

16.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, Additional District Judge, Hosur, Krishnagiri District, shall disburse the compensation amount upon production of certified copy showing proof of payment of Court fee by the appellant/ claimant.

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

20.11.2024

pri

Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Subordinate Judge,
Additional District Judge,
Hosur, Krishnagiri District.

8/9



WEB COPY



C.M.A.No.3016 of 2024

M.DHANDAPANI,J.
pri

C.M.A.No.3016 of 2024



WEB COPY



C.M.A.No.3016 of 2024

20.11.2024