



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.No.2887 of 2023

Durai

.. Appellant

Vs.

1. The Correspondent,
St.Luckys Matric Higher Secondary School,
Thimmampatti, Palacode Taluk,
Dharmapuri District.

2. The New India Assurance Company Limited,
39C, Bypass Road, Dharmapuri Town,
Dharmapuri Taluk and District.

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Judgment and Decree dated 20.09.2021 passed in M.C.O.P.No.561 of 2017 by the learned Motor Accident Claims Tribunal, Special Sub-Court (MACT), Dharmapuri.

For Appellant : Mr.M.Selvam

For Respondents : No appearance (R1)
Mr.J.Chandran (R2)

J U D G M E N T



This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 20.09.2021 made in M.C.O.P.No.561 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub Court (MACT), Dharmapuri.

2.The appellant is the claimant in M.C.O.P.No.561 of 2017 on the file of the Motor Accident Claims Tribunal, Special Sub Court (MACT), Dharmapuri. He filed the above said claim petition, claiming a sum of Rs.7,00,000/- as compensation on account of the injuries sustained by him in an accident that took place on 09.10.2012.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the omni bus bearing Registration No.TN-01-H-6838, belonging to the first respondent herein and directed the 2nd respondent-Insurance Company to pay a sum of Rs.1,67,245/- as compensation to the appellant.

4.Not being satisfied with the amounts awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of



compensation.

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5.The learned counsel appearing for the appellant contended that due to the aforesaid accident, the appellant sustained fracture in the right leg and multiple injuries all over the body and the Claims Tribunal without considering the same has awarded meager compensation. He further submitted that though the claimant was working in the Titan Watch Company and was earning a sum of Rs.5,000/- per month, the Claims Tribunal has fixed the notional income of the injured only at Rs.2,000/-, while determining the just compensation for disability. He further submitted that the compensation awarded towards pain and suffering is also very low and the same needs to be enhanced. He further amount of compensation awarded towards other heads are also very low and hence prayed for enhancement of compensation.

6. The learned counsel appearing for the 2nd respondent-Insurance Company submitted that since no proof was filed with respect to the income of the injured, the Claims Tribunal, taking into consideration of the prevailing price index of the year has fixed the notional income of the injured @ Rs.2,000/- per month. He further submitted that the Claims Tribunal after considering oral and documentary evidence has rightly awarded compensation



under various heads and therefore the same does not warrant any interference.

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7. Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the 2nd respondent-Insurance Company and perused the entire materials on record.

8. It is the case of the appellant that at the time of accident, the injured was earning a sum of Rs.5,000/- per month, but the Tribunal has fixed the monthly income of the appellant at Rs.2,000/- which in the opinion of this Court is very low. The accident took place in the year 2012. The cost of living has been increased enormously and salary of even unskilled workers being increased substantially and therefore this Court is of the view that a sum of Rs.5,000/- can be fixed as monthly income of the injured and inclined

to adopt percentage method. Accordingly, a sum of Rs.5,000/- per month is fixed as monthly income of the injured and by adopting percentage method, the just compensation for the disability comes to **Rs.1,10,000/-** (5000x12x22/100) and therefore a sum of **Rs.1,10,000/-** is awarded towards just compensation for the disability. As the compensation awarded towards Pain and Suffering is very low, a sum of Rs.20,000/- is awarded towards Pain



and Suffering.

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9. The amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Just compensation	89,760/-	1,10,000/-	Enhanced
2.	Loss of Earning	8,000/-	8,000/-	Confirmed
3.	Pain and Suffering	7,500/-	20,000/-	Enhanced
4.	Cost of Nourishment	5,000/-	5,000/-	Confirmed
5.	Cost of the attender	5,000/-	5,000/-	Confirmed
6.	Medical expenses	46,485/-	46,485/-	Confirmed
7.	Transport expenses	5,000/-	5,000/-	Confirmed
8.	Loss of clothing on accident	500/-	500/-	Confirmed
	Total	Rs.1,67,245/-	Rs.1,99,985/- Rs.2,00,000/- (rounded off)	Enhanced by Rs.32,755/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,67,245/- is hereby enhanced to Rs.2,00,000/- together with interest at the rate of 7.5% per annum



from the date of petition till the date of deposit. The 2nd respondent-Insurance Company is directed to deposit the award amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of **six weeks** from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.561 of 2017 on the file of the Motor Accident Claims Tribunal, Special Subordinate Court (MACT), Dharmapuri. On such deposit being made, the Tribunal is directed to transfer the Award amount directly to the Bank account of the Appellant/Claimant through RTGS, within a period of **three weeks** thereafter. The claimant is directed to pay necessary Court fee, if any on the enhanced compensation. However, it is made clear that if there is any delay in filing the C.M.A. and in case of any earlier order by this Court, depriving interest for the period of delay in question, the interest portion for that period should be excluded for the purpose of granting interest. No costs.

08.01.2024

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Index : Yes / No
Internet : Yes / No

To

1. The Correspondent,



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St.Luckys Matric Higher Secondary School,
Thimmampatti, Palacode Taluk,
Dharmapuri District.

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2. The New India Assurance Company Limited,
39C, Bypass Road, Dharmapuri Town,
Dharmapuri Taluk and District.
3. The Motor Accident Claims Tribunal,
Special Sub-Court (MACT), Dharmapuri.
4. The Section Officer,
VR Section,
High Court,
Madras.

KRISHNAN RAMASAMY, J.

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