



C.M.A.No.3120 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3120 of 2024

Murugesan

... Appellant

Vs.

1.Karthick

2.The Divisional Manager
National Insurance Co. Ltd.,
Divisional Office-1, LRN Complex,
Saratha College Road,
Salem.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award dated 04.07.2022 made in M.C.O.P.No.595 of 2016, on the file of the Motor Accidents Claims Tribunal, Special Subordinate Court, Dharmapuri.

For Appellant : Mr.D.Ramesh Kumar
For Respondents : R1 – NDW vide order dt.30/10/24
Mr.C.Johnson for R2

J U D G M E N T

This appeal has been filed against the judgment and decree



C.M.A.No.3120 of 2024

dated 04.07.2022 passed by the Motor Accidents Claims Tribunal, Special Subordinate Court, Dharmapuri, in M.C.O.P.No.595 of 2016.

2.The learned counsel appearing for the appellant submitted that on 21.02.2016, at about 3.00 p.m., the appellant was riding his two wheeler bearing Registration No.TN 29 AP 7363 in the Palacode to Somanahalli Road, opposite to Jayasakthi Higher Secondary School. At that time, a motor cycle bearing Registration No.TN 30 BW 1992 owned by the first respondent and insured with the second respondent came back in a rash and negligent manner and dashed the appellant, 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.9 Lakhs. After adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.2,36,200/- with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit and costs and directed that the second respondent to deposit the compensation. Aggrieved by the same, the appellant claimant has filed this appeal for enhancement in compensation.



C.M.A.No.3120 of 2024

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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 amount awarded by the Tribunal under various heads are very very meagre and hence, the appellant is entitled for enhancement in compensation.

5.The learned counsel appearing for the second respondent 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 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. The tribunal after



C.M.A.No.3120 of 2024

elaborately discussing the factual aspects awarded a sum of Rs.94,500/- for just compensation, Rs.14,000/- for loss of earnings, Rs.15,000/- for pain and sufferings, Rs.12,000/- for cost of nourishment, Rs.7,000/- for cost of the attender, Rs.7,000/- for transport expenses, Rs.86,200/- for medical bills, Rs.500/- for loss of clothing on accident and arrived at a total compensation of Rs.2,36,200/- with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit.

8.The Medical Board has assessed the disability of the injured claimant as 15%. At the relevant point of time Rs.4,000/- per percentage of disability was awarded. Hence, the amount awarded for just compensation works out to Rs.60,000/- [15% X Rs.4,000/- = Rs.60,000/-]. Accordingly, the amount awarded under the head just compensation is reduced to Rs.60,000/- from Rs.94,500/-.

9.The amount awarded under the head medical bills is confirmed. The amount awarded under the other heads, in the opinion of this Court are low and this Court is inclined to enhance the amount awarded under the other heads. Accordingly, the amount awarded for



C.M.A.No.3120 of 2024

loss of earnings is enhanced to Rs.21,000/- from Rs.14,000/-, the amount awarded for pain and sufferings is enhanced to Rs.50,000/- from Rs.15,000/-, the amount awarded for cost of nourishment is enhanced to Rs.20,000/- from Rs.12,000/-, the amount awarded for cost of the attender is enhanced to Rs.10,000/- from Rs.7,000/-, the amount awarded for transport expenses is enhanced to Rs.10,000/- from Rs.7,000/-, the amount awarded for loss of clothing on accident is enhanced to Rs.800/- from Rs.500/-.

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

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Just Compensation	Rs. 95,500/-	Rs. 60,000/-
2.	Loss of earnings	Rs. 14,000/-	Rs. 21,000/-
3.	Pain and sufferings	Rs. 15,000/-	Rs. 50,000/-
4.	Cost of nourishment	Rs. 12,000/-	Rs. 20,000/-
5.	Cost of attender	Rs. 7,000/-	Rs. 10,000/-
6.	Transport expenses	Rs. 7,000/-	Rs. 10,000/-
7.	Medical bills	Rs. 86,200/-	Rs. 86,200/-
8.	Loss of clothing on accident	Rs. 500/-	Rs. 800/-
	Total	Rs.2,36,200/-	Rs.2,58,000/-



C.M.A.No.3120 of 2024

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11.The appellant claimant is entitled to total compensation of Rs.2,58,000/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit.

12.The civil miscellaneous appeal is partly allowed. The judgment and decree dated 04.07.2022 passed by the Motor Accidents Claims Tribunal, Special Subordinate Court, Dharmapuri, in M.C.O.P.No.595 of 2016, is modified to the above extent.

13.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 costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal.

14.The appellant/ claimant shall not be entitled to any interest for the period of delay, if any, in filing/ representing the appeal. The



C.M.A.No.3120 of 2024

appellant/ claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accidents Claims Tribunal, Special Subordinate Court, Dharmapuri, shall disburse the compensation amount upon production of certified copy showing proof of payment of Court fee by the appellant/ claimant.

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

03.12.2024

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal,
Special Subordinate Court, Dharmapuri.



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C.M.A.No.3120 of 2024

M.DHANDAPANI,J.
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C.M.A.No.3120 of 2024

03.12.2024