



C.M.A.No.3015 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3015 of 2024

Arul @ Arulselvam

... Appellant

Vs.

1.Mathivanan

2.The Branch Manager

United India Insurance Company Limited,
No.19, Sudha Complex,
56, T.S.R.Big Street,
Nila South Street,
Nagapattinam Town and District.

{The 1st respondent is set ex-parte
before the tribunal, hence notice
may be dispensed with for the
1st respondent in this appeal}

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, for enhancement of compensation in the judgment and decree dated 25.04.2022 made in M.C.O.P.No.26 of 2019 on the file of MACT/ Sub Court at Nagapattinam.

For Appellant : Mr.M.Lokesh
For Respondents : R1 – Exparte in E.B.
Mrs.I.Malar for R2



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J U D G M E N T

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This appeal has been filed against the judgment and decree dated 25.04.2022 passed by the Motor Accidents Claims Tribunal / Sub Court at Nagapattinam, in M.C.O.P.No.26 of 2019.

2.The learned counsel appearing for the appellant submitted that on 01.10.2018, at about 9.45 p.m., the appellant was riding in his motorcycle bearing registration no.TN 39 BS 6258 in Thamaraikulam to Sellur from East to West. At that time, a motorcycle bearing Registration No.TN 51 AF 9835 owned by the first respondent and insured with the second respondent came in a rash and negligent manner in the opposite direction and dashed against the motorcycle driven by 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.10 Lakhs. After adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.2,71,900/- with interest at the rate of 7.5% p.a. from the date of filing of the petition till the date of deposit and costs and



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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 30% and awarded Rs.5,000/- per percentage of disability 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 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



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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.1,50,000/- for permanent disability, Rs.30,000/- for loss of earning, Rs.10,000/- for transport charges, Rs.20,000/- for loss of comfort, Rs.15,000/- for extra nourishment, Rs.9,886/- for medical expenses, Rs.25,000/- for pain and sufferings, Rs.2,000/- for loss of amenities, Rs.10,000/- for attender charges and arrived at a total compensation of Rs.2,71,886/- rounded of to Rs.2,71,900/- with interest at the rate of 7.5% p.a. from the date of filing of the petition till the date of deposit.

9.The Medical Board assessed the disability of the injured claimant as 50% disability. At the relevant point of time Rs.7,000/- per percentage of disability was awarded. Hence, the amount



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awarded for disability works out to Rs.3,50,000/- [50% X Rs.7,000/-
= Rs.3,50,000/-].

10.The amount awarded under the head transport expenses, 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 transport charges is enhanced to Rs.20,000/- from Rs.10,000/-. The amount awarded under the head loss of comfort, in the opinion of this Court is not necessary and the same is deleted. The amount awarded under the other heads, in the opinion of this Court are just and reasonable and the same are 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.	Permanent Disability	Rs.1,50,000/-	Rs.3,50,000/-
2.	Pain and sufferings	Rs. 25,000/-	Rs. 25,000/-
3.	Extra nourishment	Rs. 15,000/-	Rs. 15,000/-
4.	Transport charges	Rs. 10,000/-	Rs. 20,000/-
5.	Attender charges	Rs. 10,000/-	Rs. 10,000/-
6.	Loss of earnings	Rs. 30,000/-	Rs. 30,000/-
7.	Medical expenses	Rs. 9,886/-	Rs. 9,886/-
8.	Loss of amenities	Rs. 2,000/-	Rs. 2,000/-



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S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
9.	Loss of comfort	Rs. 20,000/-	---
	Total	Rs.2,71,886/-	Rs.4,61,886/-

12.The appellant claimant is entitled to total compensation of Rs.4,61,886/- along with interest at the rate of 7.5% p.a. from the date of filing of the petition till the date of deposit.

13.The civil miscellaneous appeal is partly allowed. The judgment and decree dated 25.04.2022 passed by the Motor Accidents Claims Tribunal / Sub Court at Nagapattinam, in M.C.O.P.No.26 of 2019, is modified to the above extent.

14.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.



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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/ Sub Court at Nagapattinam, shall disburse the compensation amount upon production of certified copy showing proof of payment of Court fee by the appellant/ claimant.

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

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

To

1.The Subordinate Judge /
Sub Court at Nagapattinam.



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M.DHANDAPANI,J.
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