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CMA.No.2792 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.No.2792 of 2023

S.Sekar

... Appellant

vs.

1. A.Thangadurai

2 The United India Insurance Co. Limited,
No.34, Greams road,
IV Floor, Anna salai,
Chennai – 600 006.

...

Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 07.02.2023 in M.C.O.P.6863/2017 on the file of the Motor Accident Claims Tribunal, VI Small Causes Court, Chennai.

For Appellant : Mr.G.Palanisamy

For R2 : Mr.J.Michael visuvasam

J U D G M E N T

The appellant is the claimant in M.C.O.P.6863/2017 on the file of the Motor Accident Claims Tribunal, Chennai. He filed the claim petition under Section 166 Rule 3 of the Motor Vehicles Act, 1988 seeking



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compensation of Rs.10,00,000/- for the injuries sustained by him in a road accident that happened on 09.01.2017.

2. The brief case of the appellant / claimant is as follows :

On 09.01.2017, the claimant was riding a two-wheeler bearing Registration number TN 29 BA 3803 on Pennagaram road and when he was nearing Koothupadi junction, a Mahindra Bolero car bearing Registration number TN 29 BD 3737, came in the opposite direction and hit the two wheeler driven by the claimant, as a result of which, he sustained injuries all over his body. He was immediately rushed to the Government hospital, Pennagaram and subsequently was admitted in K.S.Hospital, Dharmapuri as an inpatient for about 11 days.

3. According to the claimant, the rash and negligent driving of the driver of the Mahindra Bolero car bearing Registration number TN 29 BD 3737 was the cause of the accident and that since the said vehicle was insured with the second respondent, the United India Insurance Company Limited, the owner and the insurer are jointly and severally liable to pay compensation to him.



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4. In the Tribunal, the owner of the vehicle remained absent and was set *exparte*. The second respondent resisted the claim petition on all the grounds available to the insurer under Section 170 of the Motor Vehicles Act.

5. The Tribunal vide its orders dated 07.02.2023, after analysing the evidence on record, fastened negligence on the part of the driver of the car and further held that the liability of the owner of the car and the Insurer are joint and several and that they should pay compensation of Rs.2,12,400/- together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation.

6. Aggrieved over the quantum of compensation awarded by the Tribunal, the appellant / claimant has filed the present appeal under Section 173 of the Motor Vehicles Act.

7. Heard Mr.G.Palanisamy, learned counsel appearing for the appellant and Mr.J.Michael visuvassam, learned counsel for the second respondent.



8. Mr.G.Palanisamy, learned counsel appearing for the appellant

contended that the claimant was admitted as an inpatient in K.S.Hospital, Dharmapurit on 26.01.2017 and was discharged on 01.02.2017 and had incurred an expenditure of Rs.1,35,900/- towards medical treatment as is seen from the cash credit bill (Ex.P22) dated 01.02.2017. However, the Tribunal has reduced it by Rs.57,400/- without assigning any reason. He also contended that the compensation awarded by the Tribunal does not commensurate with the injuries sustained by the claimant. He therefore prayed for enhancement of compensation.

9. Per contra Mr.J.Michael visuvassam, learned counsel appearing

for the second respondent contended that the Award passed by the Tribunal is based on the well laid principles of law which were in vogue at the time of passing of the order and therefore, the same need not be disturbed at this stage.

10. It is seen from Cash Credit bill (Ex.P22) that the claimant

had incurred an expenditure of Rs.78,500/- towards his medical treatment and the entire amount is awarded towards medical expenses. The Medical



board attached to the Government Kilpauk Medical College Hospital, Chennai assessed the partial permanent disability of the claimant as 20%.

Since there is no functional disability, the Tribunal has awarded a sum of Rs.80,000/- towards partial permanent disability. Since the accident took place in the year 2017, a sum of Rs.7,000/- is fixed per percentage of partial permanent disability and totally a sum of Rs.1,40,000/- is awarded for 20% of partial permanent disability. The following tabular column would show the award passed by the Tribunal and the modified compensation awarded by this Court:

<i>S.No.</i>	<i>Heads</i>	<i>Amount awarded by the Tribunal</i>	<i>Award of this Court</i>
1	Medical expenditure	Rs.57,400/-	Rs.1,35,900/-
2	Transportation charges	Rs.10,000/-	Rs.10,000/-
3	Extra nourishment	Rs.10,000/-	Rs.10,000/-
4	Attender charges	Rs.10,000/-	Rs.10,000/-
5	Partial Permanent Disability	Rs.80,000/- (20X4,000)	Rs.1,40,000/- (20X7,000)
6	Loss of income for three months	Rs.30,000/- (10,000X3)	Rs.30,000/- (10,000X3)
7	Pain and Sufferings	Rs.15,000/-	Rs.15,000/-
8	Total	Rs.2,12,400/-	Rs.3,50,900/-



11. Thus, the compensation awarded by the Tribunal is enhanced to Rs.3,50,900/- that would carry interest at the rate of 7.5% per annum.

12. In the result,

- i. The Civil Miscellaneous Appeal is partly allowed. No costs.
- ii. The compensation awarded by the Tribunal is enhanced to Rs.3,50,900/-.
- iii. The appellant / claimant is directed to pay court fee for the enhanced compensation amount, if any, within a period of four weeks from the date of this order and the Registry is directed to draft the decree only after receipt of the Court fee.
- iv. The second respondent, the United India Insurance Company Limited is directed to deposit the enhanced award amount i.e. Rs.3,50,900/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of a copy of this order / uploading of this order to the credit of M.C.O.P.6863/2017 on the file of the Motor Accidents



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Claims Tribunal, VI Small Causes Court, Chennai in the first instance and then recover the same from the owner of the vehicle.

- v. On such deposit being made the appellant, claimant is permitted to withdraw the same with accrued interest and costs, after following due process of law.

12.09.2024

Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes / No
vum

To

- 1.The Motor Accidents Claims Tribunal,
VI Small Causes Court, Chennai.
- 2.The Section Officer, VR Section,
Madras High Court, Chennai.

R.HEMALATHA, J.



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