



WEB COPY



C.M.A.No.3024 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED :27.11.2024
CORAM**

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Civil Miscellaneous Appeal No.3024 of 2024

Sudhakar @ Sudhakaran

... Appellant

Vs.

1.M.Selvaganapathi

2.M/s.The New India Assurance Company Ltd.,
Having Divisional Office at
T.P.Hub, No.252/42,1st Floor, N.M.Arcad,
Opp.ARRS Multiplex, Meyyanoor Bypass Road,
Salem - 636 004

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.870 of 2023 dated 25.06.2024 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Judge, No.2, Salem.

For Appellant : Mr.R.Navaneetha Krishnan

For Respondents : Mr.S.Dhakshinamurthy for R2
R1-NDW vide order dated 21.11.2024

JUDGMENT

The claimant not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal before this Court.



C.M.A.No.3024 of 2024

WEB COPY

2. The case of the claimant is that on 21.02.2023 at about 11.45 am, when he was riding a Honda Unicorn, bearing Reg. No.TN 37 AW 1212, wearing helmet, on the left side of the road, towards Chinnathirupathi to Kamalapuram Main Road, Alaganampatti, a Ashok Leyland tipper Lorry bearing Reg.No.TN19 E 5727, came from opposite direction in a rash and negligent manner and dashed against the appellant, as a result of which, the claimant sustained multiple injuries all over the body.

3. The claimant underwent treatment as an in patient in Ganga Medical Centre and Hospital Pvt. Ltd., Coimbatre. The medical board assessed 45% disability, considering the nature of injury sustained by the claimant. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

4. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence came to a conclusion that the accident had taken place only due to the rash and



C.M.A.No.3024 of 2024

negligent driving on the part of the driver of the tipper lorry and awarded a sum of Rs.11,23,841/- under various heads with interest at the rate of 7.5% per annum.

5. The claimant not being satisfied with the quantum of compensation fixed by the Tribunal has filed this appeal seeking for enhancement of compensation.

6. The learned counsel for the appellant submitted that the injured was aged about 26 years at the time of the accident and he was working as Service Engineer. Due to the accident, he is not able to continue his avocation. The medical board assessed the disability at 45% and the Tribunal has awarded a sum of Rs.2,25,000/- towards permanent disability which is very meager and also the Tribunal has awarded very less compensation in respect of pain and sufferings during the treatment period.

7. The learned counsel appearing for the insurance company submitted that after considering the evidences and materials, the Tribunal



C.M.A.No.3024 of 2024

has awarded compensation, which is perfectly in order and the same need not any interference.

8. Heard the learned counsel for appellant/claimant and the learned counsel for 2nd respondent.

9. This Court has carefully considered the submissions made on either side and the materials available on record.

10. This Court also carefully went through the award passed by the Tribunal.

11. The fact in the present case is not in dispute and the manner of the accident is also not in dispute. For enhancement of compensation, the present appeal has been filed.

12. According to the appellant, the first respondent driving a lorry in a rash and negligent manner and dashed against the appellant and therefore, he sustained injuries. It is the main ground of the appellant that



C.M.A.No.3024 of 2024

the Tribunal has awarded very meager amount in respect of permanent disability, pain and sufferings and loss of income during the treatment period. The appellant is 26 years and he was working as an Service Engineer and earning a sum of Rs.30,000/-. Even then the Tribunal has awarded a sum of Rs.5,000/- per percentage for the permanent disability which is very meager and the amount awarded for medical expenses, loss of income and other heads is in order, which does not warrant interference by this Court. Considering the fact that the appellant was working as an Service Engineer, this Court is inclined to enhance a sum of Rs.10,000/- per percentage for the disability (Rs.10,000/-X 45%) and the disability would be arrived at Rs.4,50,000/- as he could not continue his avocation as an Service Engineer and the Court below has awarded a sum of Rs.80,000/- towards pain and sufferings and the same is enhanced to Rs.1,00,000/-; the Tribunal has awarded a sum of Rs.20,000/- for loss of amenities as well as a sum of Rs.80,000/- for pain and sufferings. Therefore, this Court is not inclined to award any amount towards loss of amenities.



C.M.A.No.3024 of 2024

WEB COPY

13. Accordingly, the award passed by the Tribunal stands modified as follows:

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Modified Award Amount (Rs.)</i>
Pain and Sufferings	80,000	1,00,000
Medical Expenses	6,72,841	6,72,841
Loss of Income	45,000	45,000
Transportation	30,000	30,000
Extra Nourishment	30,000	30,000
Attender charges	20,000	20,000
Damages to Clothes	1,000	1,000
Loss of Amenities	20,000	----
Permanent Disability (10,000 X 45%)	2,25,000	4,50,000
Total	11,23,841	13,48,841

14. The compensation awarded by the Tribunal at Rs.11,23,841/- is enhanced to Rs.13,48,841/- (Rupees thirteen lakh forty eight thousand eight hundred and forty one). The second respondent Insurance company is directed to deposit the entire compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. Insofar as the enhanced compensation is



C.M.A.No.3024 of 2024

concerned, the deficit court fee, if not paid, shall be paid by the appellant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

15. In the result, the Civil Miscellaneous Appeal is partly allowed.

No costs.

27.11.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

msv

To,
Motor Accidents Claims Tribunal,
Special Subordinate Judge, No.2,
Salem.



WEB COPY



C.M.A.No.3024 of 2024

M.DHANDAPANI.,J

msv

Civil Miscellaneous Appeal No.3024 of 2024

27.11.2024