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C.M.A.No.1648 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.1648 of 2019 and
C.M.P. No.4852 of 2019

The General Manager,
Engine Factory,
Unit of Armoured Vehicles Nigam Limited,
(AVNL) Avadi,
Chennai - 600 054.

.. Appellant

(Cause title amended vide Court order dated
01.03.2024 made in C.M.P. No.8472 of 2023
in C.M.A. No.1648 of 2019 by TKRJ)

vs.

Ayyavu

.. Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 13.07.2015 made in M.C.O.P. No.1167 of 2014 on the file of the Motor Accidents Claims Tribunal (IV Court of Small Causes) at Chennai.

For Appellant : Dr.D.Simon

For Respondent : Mr.Amar Dineshbhai Pandiya

JUDGMENT



C.M.A.No.1648 of 2019

WEB COPY

This appeal has been filed by the owner of the vehicle, which caused the accident resulting in injuries sustained by the respondent/claimant.

2.The appellant has filed this appeal primarily on the ground that the Tribunal has erroneously assessed the disability of the respondent/claimant at 40% and has erroneously awarded compensation on the higher side under various heads.

3.The Tribunal has awarded a total compensation of Rs.4,70,000/- to the respondent/claimant as detailed hereunder:

S.Nos.	Heads	Amount awarded by the Tribunal
1.	Disability	Rs.1,20,000.00
2.	Pain and suffering	Rs.1,00,000.00
3.	Extra Nourishment	Rs. 75,000.00
4.	Transport to hospital	Rs. 50,000.00
5.	Damages to clothes	Rs. 3,000.00
6.	Attender charges	Rs. 40,000.00
7.	Medical expenses	Rs. 7,000.00
8.	Future medical expenses	Rs. 25,000.00
9.	Loss of amenities	Rs. 50,000.00
	Total	Rs.4,70,000.00



4.Admittedly, the respondent/claimant has sustained the following injuries as a result of an accident caused by a vehicle, owned by the appellant:

'Fracture of right lateral condyle fracture and open knee joint injury with comminuted fracture of right patella for which debridement and buttress plating distal femur and tension band wiring patelling in the right leg'.

5.Admittedly, the respondent/claimant was in the hospital for 13 days. The Doctor (P.W.2) has assessed the disability of the respondent/claimant at 45%. However, the Tribunal has reduced the disability as 40% after giving due consideration to the nature of injuries sustained by the respondent/claimant. The assessment made by the Tribunal is correct and it does not call for any interference by this Court. The Tribunal has awarded the disability compensation at Rs.1,20,000/- to the respondent/claimant by assessing the disability compensation at Rs.3,000/- per percentage of disability. Considering the nature of injuries sustained by the respondent/claimant and the year of the accident, which happened in the year 2013, this Court is of the considered view that the disability compensation awarded by the Tribunal to the respondent/claimant at Rs.1,20,000/- is a just compensation, which does not call for any



C.M.A.No.1648 of 2019

interference since no contra evidence has been produced by the appellant to disprove the disability assessed by the Tribunal.

6.Insofar as the compensation awarded by the Tribunal towards Extra Nourishment at Rs.75,000/- is concerned, the same is on the higher side. After giving due consideration to the nature of injuries sustained by the respondent/claimant as well as the period of his hospitalisation, this Court deems it fit to reduce the compensation awarded by the Tribunal towards Extra Nourishment from Rs.75,000/- to Rs.25,000/-.

7.Similarly, the compensation awarded by the Tribunal towards Transportation at Rs.50,000/- is also on the higher side and it requires to be reduced. The respondent/claimant has himself claimed only a compensation at Rs.10,000/- in his Claim Petition towards Transportation. However, this Court will have to award a just compensation, after giving due consideration to the nature of injuries sustained by the respondent/claimant as well as the nature of his

treatment and the period of his hospitalisation. After giving due



C.M.A.No.1648 of 2019

consideration to the same, this Court deems it fit to fix the compensation payable to the respondent/claimant towards Transportation at Rs.15,000/- instead of Rs.50,000/- awarded by the Tribunal, which is erroneous.

8.The Tribunal has also awarded a higher compensation towards Attender Charges at Rs.40,000/- and towards Loss of amenities at Rs.50,000/- for the very same reason as stated supra. This Court reduces the compensation payable to the respondent/claimant towards Attender Charges from Rs.40,000/- to Rs.25,000/- and towards Loss of Amenities from Rs.50,000/- to Rs.25,000/-.

9.No evidence has been placed on record by the respondent/claimant to enable him to get compensation towards Future Medical Expenses. But the Tribunal has erroneously awarded a compensation of Rs.25,000/- to the respondent/claimant towards Future Medical Expenses and therefore, the compensation awarded by the Tribunal at Rs.25,000/-

towards Future Medical Expenses has to be set aside by this Court and the same is set aside.



C.M.A.No.1648 of 2019

WEB COPY

10. Insofar as the compensation awarded by the Tribunal towards Pain and suffering at Rs.1,00,000/-, Medical Expenses at Rs.7,000/- and Damages to clothes at Rs.3,000/- are concerned, the same is a just compensation.

11. For the foregoing reasons, the compensation awarded by the Tribunal to the respondent/claimant is reduced from Rs.4,70,000/- to Rs.3,20,000/- as detailed hereunder:

S.Nos.	Heads	Amount awarded by this Court
1.	Disability	Rs.1,20,000.00
2.	Pain and suffering	Rs.1,00,000.00
3.	Extra Nourishment	Rs. 25,000.00
4.	Transport to hospital	Rs. 15,000.00
5.	Damages to clothes	Rs. 3,000.00
6.	Attender charges	Rs. 25,000.00
7.	Medical expenses	Rs. 7,000.00
8.	Loss of amenities	Rs. 25,000.00
	Total	Rs.3,20,000.00

12. Learned counsel for the appellant has brought to the notice of this Court that there was an error in the date from which interest will



C.M.A.No.1648 of 2019

have to be awarded to the respondent/claimant in the impugned decretal order of the Tribunal. The interest at the rate of 7.5% has been awarded to the respondent/claimant from 14.02.2013, though the Claim Petition was filed by the respondent/ claimant only on 14.02.2014. Since there is an error apparent on the face of the decretal order passed by the Tribunal, the same is corrected by this Court by making it clear that the interest awarded to the respondent/ claimant has to be paid by the appellant only from 14.02.2014 and not from 14.02.2013.

13. Accordingly, this Civil Miscellaneous Appeal is partly allowed by reducing the amount awarded by the Tribunal. The appellant is directed to deposit the modified award amount of Rs.3,20,000/-, after deducting the amount already deposited, if any, together with interest at the rate of 7.5% per annum from the date of the claim petition i.e. 14.02.2014 till the date of deposit and cost to the credit of M.C.O.P. No.1167 of 2014 on the file of the Motor Accidents Claims Tribunal, IV Court of Small Causes, Chennai, within a period of four weeks from the date of receipt of a copy of this judgment.



C.M.A.No.1648 of 2019

14.It is submitted by the learned counsel for the appellant that the appellant has already deposited the entire award amount as directed by the Tribunal.

15.Since the appellant has already deposited the entire award amount, which is higher than the amount awarded by this Court, the appellant is permitted to file an appropriate application to withdraw the excess amount deposited by them before the Tribunal.

16.The respondent/claimant is permitted to withdraw the amount awarded by this Court lying to the credit of M.C.O.P. No.1167 of 2014 by filing an appropriate application before the Tribunal. On such application being made, the Tribunal shall transfer the amount lying to the credit of M.C.O.P. No.1167 of 2014 to the bank account of the respondent/claimant directly through RTGS/NEFT, within a period of one week thereafter. No costs. Consequently, connected petition is closed.

03.06.2024

vga



C.M.A.No.1648 of 2019

To

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- 1.The Motor Accidents Claims Tribunal,
The IV Court of Small Causes, Chennai.
- 2.The Section Officer,
V.R. Section, High Court, Madras.



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C.M.A.No.1648 of 2019

ABDUL QUDDHOSE, J.

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C.M.A. No.1648 of 2019 and C.M.P. No.4852 of 2019

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