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C.M.A. No.1970 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.1970 of 2024

Kesavan

... Appellant

..Vs..

1. P. Natarajan

2. The Divisional Manager

M/s.The New India Assurance Co. Ltd.,

No.42, Big Street

Vasan Building, 2nd floor,

Thiruvannamalai.

...Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award passed by the Motor Accidents Claims Tribunal, District Court, Thiruvannamalai, in M.C.O.P.No.532 of 2007 dated 22.02.2008.

For Appellant : Mr. R. Rajarajan

For R2 : Mr. J. Chandran

R1 : Dispensed with notice.

JUDGMENT

The appellant is the claimant in M.C.O.P.No.532 of 2007 on the file of the Motor Accidents Claims Tribunal, District Court,



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Thiruvannamalai, and he filed the said claim petition under Section 166 of the Motor Vehicles Act, seeking compensation of Rs.9,38,000/- for the injuries sustained by him in a road accident on 10.05.2007.

2. The case of the claimant is that on 10.05.2007, at about 5.45 p.m., when he was riding his two wheeler T.V.S.1 Centra bearing Registration No.TN 25 E 4460 on Thiruvannmalai-Chengam road, a lorry bearing Registration No. TN 45 F 2179 belonging to the first respondent and insured with the second respondent, came in the opposite direction in high speed, hit the two wheeler, as a result of which, the claimant fell down and sustained injuries. He was immediately rushed to Vijaya Health Centre, Chennai, where he was admitted as an inpatient from 10.05.2007 to 25.05.2007.

2.1. According to the claimant, the rash and negligent driving of the driver of the lorry was the cause of accident and that since the first respondent insured his vehicle with the 2nd respondent, both of them are jointly and severally liable to pay compensation.



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3. In the Tribunal, the first respondent remained absent and therefore, was set *ex parte*. The second respondent, the New India Assurance Company Limited, contested the claim petition on all the grounds available to the insurer under Section 170 of the Motor Vehicles Act.

4. The Tribunal after analysing the evidence on record, directed the second respondent to pay compensation of Rs.2,16,000/- together with interest at the rate of 7.5% per annum to the appellant/claimant from the date of the petition till the date of realisation, vide its orders dated 22.02.2008.

5. Aggrieved over the orders passed by the Tribunal, the appellant/claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

6. Heard Mr.R.Rajarajan, learned counsel appearing for the appellant and Mr. J. Chandran, learned counsel appearing for the second



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respondent.

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7. Mr. Rajarajan, learned counsel for the appellant contended that the claimant was an agriculturist on the date of accident and he sustained a fracture on his right thigh and right hand. According to him, the claimant was earning a sum of Rs.3,000/- per month. However, the Tribunal has fixed his notional monthly income as Rs.2,000/-, which is on the lower side. It is his further contention that the Tribunal had granted very meagre amounts towards other heads and therefore, prayed for enhancement of compensation.

8. Per contra, Mr. J.Chandran. learned counsel appearing for the second respondent/Insurance Company 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.

9. It is seen from the records that the claimant was an agriculturist on the date of the accident. The claimant did not adduce any documentary evidence to show that he was earning a sum of Rs.3,000/-



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per month. However, this Court is of the view that fixing the notional income at Rs.3,000/- per month for an agriculturist would meet the ends of justice. The Tribunal had not granted any amount towards extra nourishment, attender's charges and loss of amenities. Apart from this, the claimant is entitled to get enhanced amounts under different heads. The following tabular column would show the enhanced award amount under various heads.

<i>S.No.</i>	<i>Description</i>	<i>Amount awarded by Tribunal (Rs.)</i>	<i>Amount awarded by this Court (Rs.)</i>
1.	Disability	35,000/-	35,000/-
2.	Medical Expenses	1,15,000/-	1,15,000/-
3.	Pain and sufferings	2,000/-	15,000/-
4.	Grievous injuries	40,000/-	45,000/-
5.	Simple injuries	4,000/-	-
6.	Loss of earnings for 6 months	12,000/- (Rs.2,000/- p.m)	18,000/- (Rs.3,000/- p.m)
7.	Transportation	Rs.8,000/-	15,000/-
8.	Extra nourishment	-	2,000/-
9.	Attender's charges	-	2,000/-
10.	loss of amenities	-	1,000/-
	Total	Rs.2,16,000/-	Rs.2,48,000/-



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10. Thus, the compensation awarded by the Tribunal is enhanced from Rs.2,16,000/- to Rs.2,48,000/- which would carry interest at the rate of 7.5% per annum.

11. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.2,16,000/- to Rs.2,48,000/-.

(iii) The appellant / claimant is directed to pay the court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after the receipt of Court fee.

(iv) The second respondent, the New India Assurance Company Limited, Thiruvannamalai, is directed to deposit the enhanced compensation amount i.e., Rs.2,48,000/- (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 to the credit of



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MCOP.No.532 of 2007 on the file of the Motor Accident Claims Tribunal, District Court, Thiruvannamalai, within a period of four weeks from the date of receipt of a copy of this order and on such deposit being made, the appellant/claimant is at liberty to withdraw the entire amount with interest after following the due process of law.

05.08.2024

Index : Yes/No
Internet : Yes/No
bga

To

1. Motor Accident Claims Tribunal, District Court, Thiruvannamalai.
2. The Divisional Manager
M/s.The New India Assurance Co. Ltd.,
No.42, Big Street
Vasan Building, 2nd floor,
Thiruvannamalai.
3. The Section Officer, VR Section, High Court, Madras.



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R. HEMALATHA, J.

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