



1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.4288 of 2019

Srinivasan

... Appellant

Vs.

1.R.Jayaraman

2.The Bajaj Allianz General Insurance Co.Ltd.,
No.105-A/107-A, Cears Plaza,
No.136, Residency Road,
Bangalore.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 15.07.2010, in M.C.O.P.No. 678 of 2006, on the file of the Motor Accidents Claims Tribunal, (Chief Judicial Magistrate), Krishnagiri.

For Appellant : Mr.M.Sriram

For R1 : No appearance

For R2 :Mr.K.Poomalai

JUDGMENT

The claimant/appellant is the appellant herein seeking enhancement of compensation.



WEB COPY

2. For the sake of convenience, the parties are referred as per ranking before the trial Court.

3. On the point of quantum, both the parties are heard.

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

On 25.02.2004, at about 08.15a.m., the claimant/appellant was proceeding and stopped his vehicle namely TVS 50 bearing Registration No.TN 29 S 5559 at the left side of the road at Soolagiri to Uhdanapalli Junction road, the driver of the Hyundai Car bearing Registration No.KA 03 P 8274 belonging to the 1st respondent and insured with the 2nd respondent, drove the same in a rash and reckless and negligent manner, in an uncontrollable speed without sounding horn, disobeying the rules of road came from Hosur to Krishnagiri dashed against the TVS 50 which was stopped there and caused the accident. Due to the impact, the claimant/appellant had sustained injuries.

5. Before the Tribunal, Ex.P7 Disability Certificate was issued and P.W.2 Doctor D.V.Gandhi was examined and based upon the oral and documentary evidence, the Court has found that P.W.2 is not a Doctor



who had given the treatment to the appellant and he has seen the appellant only after 5 years from the accident. He has not stated about the disability.

6. After hearing both sides and taking note of the fact in Exhibit P7 Disability Certificate and the evidence of P.W.2 Doctor-D.V.Gandhi, the "disability" has been fixed at 35% (Rs.2000/- for one unit of disability namely Rs.70,000/-) and accordingly, awarded a sum of Rs.70,000/- for 'disability' and the loss of other heads are also appears to be just and fair.

7. However, after going through Exhibit-P2 Discharge summary and taking into consideration of treatment taken in hospital periodically and in the interest of justice, Rs.5,000/- is hereby awarded for 'attender charges'.

8. Furthermore, the Tribunal has awarded a sum of Rs.20,000/- towards pain and sufferings' and it has been reduced to Rs.15,000/-. Taking into consideration, the nature of injuries and his treatment taken in hospital, this Court is enhanced for a sum of Rs.5,000/- under the head of 'Transport charges'- and Rs.5,000/- under the head of 'Extra Nourishment'. The appellant/claimant is entitled to a



sum of Rs.10,000/- towards 'loss of amenities'. Furthermore, the Tribunal has awarded a sum of Rs.13,500/- towards 'loss of income', Rs.13,550/- towards 'Medical Bills' and the same are hereby confirmed.

9. Accordingly, the award of the Tribunal in M.C.O.P.No. 678 of 2006 is modified as follows:-

<i>Sl. No.</i>	<i>Particulars</i>	<i>Amount granted by the Tribunal</i>	<i>Amount granted by this Court</i>
1.	Compensation for his 35% of disablement (35*Rs.2000)	Rs. 70,000/-	Rs. 70,000/-
2.	Compensation for Loss of income	Rs. 13,500/-	Rs. 13,500/-
3.	Compensation for his pain and sufferings	Rs. 20,000/-	Rs. 15,000/-
4.	Medical Bills	Rs. 13,550/-	Rs. 13,550/-
5.	Attender Charges	-----	Rs. 5,000/-
6.	Loss of amenities	-----	Rs. 10,000/-
7.	Transport	Rs. 5,000/-	Rs. 5,000/-
8.	Extra Nourishment		Rs. 5,000/-
	Total	Rs.1,22,050/-	Rs.1,37,050/-

The compensation awarded by the Tribunal is enhanced from Rs.1,22,050/- to Rs.1,37,050/- which shall carry interest at the rate of 7.5% per annum.



10. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed to the limited extent indicated above. No costs.

(ii) The quantum of compensation awarded by the Tribunal is enhanced from **Rs.1,22,050/- to Rs.1,37,050/-**.

(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/Bajaj Alliance General Insurance Company Limited is directed to deposit the enhanced compensation amount awarded by this court, i.e., Rs.1,37,050/- (reduced the amount already deposited) together with the interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No. 678 of 2003, dated 15.07.2010 on the file of the Motor Accidents Claims Tribunal, (Chief Judicial Magistrate), Krishnagiri, within a period of eight weeks from the date of receipt of a copy of this order.

(v) On such deposit being made by the second respondent, the appellant/claimant is permitted to withdraw the same, in the manner known to law.

04.01.2024

nvi



Index : Yes/No
Speaking/Non-speaking order

WEB COPY

To

- 1.The Motor Accidents Claims Tribunal,
The Chief Judicial Magistrate,
Krishnagiri.
- 2.The Section Officer,
V.R.Section,
High Court,
Madras.



WEB COPY



7

RMT.TEEKAA RAMAN, J.

nvi

C.M.A.No.4288 of 2019

04.01.2024