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C.M.A.No.1906 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1906 of 2019

D.Arumugam

... Appellant

Vs.

1.S.Nallathambi

2.The Divisional Manager
Oriental Insurance Co. Ltd.,
Thiruvallur District,
Thiruvallurtown.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow this appeal by enhancing the award passed by the Subordinate Judge, Tambaram, Chennai in M.C.O.P.No.258 of 2009 (CPT SC MCOP No.72 of 2007) dated 03.01.2018 and allow the appeal with cost throughout.

For Appellant : Mr.S.Udayakumar
For Respondents : R1 – No Appearance
Mr.N.Sampath for R2

J U D G M E N T

This appeal has been filed against the judgment and decree dated 03.01.2018 passed by the Motor Accidents Claims Tribunal,

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Subordinate Judge, Tambaram, in M.C.O.P.No.258 of 2009 (CPT SC MCOP No.72 of 2007).

2.The learned counsel appearing for the appellant submitted that on 15.11.2006, at about 18.15 hours, the appellant was proceeding in his bicycle on Melathur to Tambaram near Melathur Government High School. At that time, a lorry bearing Registration No.TN 09 A 0976 owned by the first respondent and insured with the second respondent came in a rash and negligent manner in the opposite direction and dashed against the bicycle, due to which, the appellant sustained injuries.

3.The learned counsel appearing for the appellant further submitted that thereafter, the injured claimant/ appellant filed claim petition before the Tribunal, claiming compensation of Rs.10 Lakhs. After adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.5,00,000/- with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit and costs and directed that the second respondent to deposit the compensation. Aggrieved by the same, the appellant claimant has filed this appeal for enhancement in compensation.



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4.The learned counsel appearing for the appellant further submitted that the appellant has filed this appeal questioning the quantum of compensation awarded by the Tribunal. The learned counsel further submitted that due to the accident, the appellant's right leg was amputated, which is 100% disability and he is not able to continue his avocation after the accident, however, the Tribunal awarded a sum of Rs.1,75,000/- in random for permanent disability which is not sustainable one and further submitted that the compensation awarded under the other heads also are meagre.

5.The learned counsel appearing for the second respondent Insurance Company submitted that the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference.

6.Heard the learned counsel appearing for the appellant claimant as well as the learned counsel appearing for the second respondent Insurance Company and perused the materials available on record.



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7.This appeal has been filed only questioning the quantum of compensation awarded by the Tribunal. Hence, there is no need for any discussion with regard to negligence aspect.

8.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.1,75,000/- for permanent disability, Rs.50,000/- for loss of earning, Rs.5,000/- for transport charges, Rs.10,000/- for damage to cloth and articles, Rs.10,000/- for extra nourishment, Rs.2,00,000/- for medical expenses, Rs.50,000/- for pain and sufferings and arrived at a total compensation of Rs.5,00,000/- with interest at the rate of 7.5% p.a. from the date of the petition till the date of deposit.

9.Admittedly, the right leg of the appellant has been amputated and he is not able to continue his avocation after the accident. Hence, this Court fix the disability as 65% functional disability and is inclined to award compensation by adopting multiplier method.

10.The claimant in his claim petition has claimed that he was earning a sum of Rs.5,000/- per month, which is just and reasonable. Hence, this Court fix Rs.5,000/- as the monthly income of the



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claimant. The age of the claimant at the time of the accident is 45 and hence the correct multiplier to be adopted is 14. Accordingly, the amount awarded towards permanent disability works out to Rs.5,46,000/- [Rs.5,000/- X 12 X 14 X 65%].

11.The amount awarded under the head extra nourishment, in the opinion of this Court is low and this Court is inclined to enhance the amount awarded under the said head. Accordingly, the amount awarded for extra nourishment is enhanced to Rs.20,000/- from Rs.10,000/-. The amount awarded under the head damage to cloth and articles, in the opinion of this Court is high and this Court is inclined to reduce the amount awarded under the said head. Accordingly, the amount awarded for damage to cloth and articles is reduced to Rs.1,000/- from Rs.10,000/-. This Court is inclined to grant the amount in the medical bills i.e., Rs.1,81,558/- for medical expenses and hence the same is reduced from Rs.2 Lakhs to Rs.1,81,558/-. The amount awarded under the other heads, in the opinion of this Court are just and reasonable and the same are confirmed.

12.Accordingly, the compensation amount is re-assessed as



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follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Permanent Disability	Rs.1,75,000/-	Rs.5,46,000/-
2.	Pain and sufferings	Rs. 50,000/-	Rs. 50,000/-
3.	Extra nourishment	Rs. 10,000/-	Rs. 20,000/-
4.	Transport charges	Rs. 5,000/-	Rs. 5,000/-
5.	Damage to cloth and article	Rs. 10,000/-	Rs. 1,000/-
6.	Loss of earnings	Rs. 50,000/-	Rs. 50,000/-
7.	Medical expenses	Rs.2,00,000/-	Rs.1,81,558/-
	Total	Rs.5,00,000/-	Rs.8,53,558/-

13.The appellant claimant is entitled to total compensation of Rs.8,53,558/- along with interest at the rate of 7.5% p.a. from the date of the petition till the date of deposit.

14.The civil miscellaneous appeal is partly allowed. The judgment and decree dated 03.01.2018 passed by the Motor Accidents Claims Tribunal, Subordinate Judge, Tambaram, in M.C.O.P.No.258 of 2009 (CPT SC MCOP No.72 of 2007), is modified to the above extent.

15.The second respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal



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within a period of six weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such deposit being made, the appellant/ claimant is permitted to withdraw the modified/ enhanced award amount, along with accrued interest and costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal.

16.The appellant/ claimant shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The appellant/ claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accidents Claims Tribunal, Subordinate Judge, Tambaram, shall disburse the compensation amount upon production of certified copy showing proof of payment of Court fee by the appellant/ claimant.

17.The civil miscellaneous appeal is partly allowed. No costs.

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To
1.The Subordinate Judge, Tambaram, Chennai.

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M.DHANDAPANI,J.
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