



C.M.A.No.445 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.445 of 2019

S.Velankanni

... Appellant

Vs.

1.P.Paneer Durai

2.K.Raja Balakrishnan

3.M/s.Reliance General Insurance,
No.15-A, PLA Kanagu Tower,
Thillai Nagar, 11th Cross,
Tiruchy – 18.

... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 17.11.2015 in M.C.O.P.No.719 of 2013 on the file of the Motor Accident Claims Tribunal, Perambalur.

For Appellant : Mr.K.Varadakamaraj

For R1 : No appearance

For R2 : Mr.A.V.Arun

For R3 : Mr.S.Arunkumar



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J U D G M E N T

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The Civil Miscellaneous Appeal is preferred against the judgment and decree dated 17.11.2015 in M.C.O.P.No.719 of 2013 on the file of the Motor Accident Claims Tribunal (Principal District Judge), Perambalur, (hereinafter referred to as “the Tribunal” for brevity).

2.Brief facts of the case are as follows :

On 23.04.2013, at about 08.00 a.m., when the appellant was riding his Platina Two Wheeler bearing Registration No.TN-61-4239 on Chennai-Trichy Main Road, from North to South on the extreme left side of the road, near Irur Bus Stop, a Car bearing Registration No.TN-76-L-9768 belonging to respondents 1 and 2 and insured with the 3rd respondent and driven by their driver, came in a rash and negligent manner with hectic and uncontrollable speed without blowing horn and dashed against the appellant. Due to the said impact, the appellant was thrown away and sustained laceration from nose to forehead, fracture of both nasal bone, and multiple abrasions in both of his hands, swelling and contusion over his



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right leg thigh, knee and fracture on his left leg Tibia bone. The Padalur Police registered a case against the driver of the Car in Crime No.155 of 2013 under Sections 279 and 337 IPC. The appellant states that he was aged 35 years at the time of accident and he was a painter and earned not less than Rs.350/- per day. The appellant states that, due to the accident, the appellant sustained permanent disability and was not able to do the work as before the accident. Therefore, the appellant filed a claim petition in M.C.O.P.No.719 of 2013 before the Tribunal for compensation of Rs.10,00,000/- under various heads.

3.Before the Tribunal, the appellant/claimant examined himself as P.W.1 and the Doctor was examined as P.W.2. Exs.P1 to P15 were marked on the side of the appellant/claimant. No oral or documentary evidence was marked on the side of the respondents.

4.The Tribunal, on considering the oral and documentary evidence on record, by judgment and decree dated 17.11.2015, awarded a sum of Rs.4,46,722/- with interest at the rate of 7.5% from the date of claim



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petition, and directed the 3rd respondent Insurance Company to deposit the Award amount in any one of the Nationalised Bank for 3 years and permitted the appellant to withdraw the accrued interest once in three months from the Bank.

5.The claimant has now filed the present Appeal seeking enhancement of compensation.

6.Learned counsel for the appellant/claimant submitted that the appellant has examined the Doctor as P.W.2 to prove that the appellant had sustained permanent disability at 42%. However, the learned counsel contended that there is no discussion for arriving at a sum of Rs.3,000/- while calculating the compensation towards disability at 42%, amounting to Rs.1,26,000/- ($42 \times 3000 = \text{Rs.1,26,000}$). The learned counsel further submitted that the monthly income of the appellant at the time of accident was Rs.10,000/-, however, the Tribunal has taken the monthly income as Rs.6,000/-. The learned counsel further submitted that the amounts awarded by the Tribunal under other heads are also very very meagre and prayed for



enhancement of the same.

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7.Per contra, learned counsel appearing for the respondents submitted that the compensation awarded by the Tribunal is highly excessive. Since the respondents have not preferred any appeal as against the quantum of compensation, the learned counsel for the respondents submitted that the Award the Tribunal can be confirmed. Therefore, they prayed for dismissal of this Appeal.

8.Heard the learned counsel on either side and perused the materials available on record.

9.The accident and the manner in which the accident occurred is not in dispute. There is no issue with regard to negligence aspect or liability also. The present Appeal is only for enhancement of compensation. P.W.2/ Doctor has assessed the partial permanent disability of the appellant at 42%. However, it is admitted that the appellant was not referred to any Medical Board. In the absence of any opinion of the Medical Board, the Tribunal would normally reduce the disability assessed by the Doctor. However, in



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the present case, the Tribunal has accepted the entire disability of 42% and thereby, awarded a sum of Rs.1,26,000/- ($42 \times 3,000 = \text{Rs.}1,26,000$), which is reasonable and requires no interference. Moreover, since the appellant has not furnished any document to prove his monthly income, the Tribunal has taken the notional income of the appellant as Rs.6,000/- per month, which is reasonable. By taking the rest period as 8 months, the Tribunal has awarded a sum of Rs.48,000/- ($8 \times 6,000$) which is also just and reasonable. The Tribunal has further awarded a sum of Rs.60,000/- towards pain and sufferings; Rs.75,000/- for loss of comforts due to disfiguration; Rs.50,000/- for nutritious diet; Rs.68,319/- towards medical expenses; Rs.11,293/- towards repairing charges; Rs.8,110/- towards transport charges. All the amounts awarded by the Tribunal under various heads, in the opinion of this Court, are just and reasonable, and require no interference.

10. Therefore, this Civil Miscellaneous Appeal is dismissed, confirming the Award of the Tribunal. No costs.

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Speaking order / Non-Speaking order
Neutral Citation : Yes / No

To

The Motor Accident Claims Tribunal
(Principal District Judge),
Perambalur.



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M. DHANDAPANI, J.

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