



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Civil Miscellaneous Appeal No.3483 of 2019

Sekar

... Appellant

Vs.

1.C.Ganesh

2. The Manager,
Shri Ram General Insurance Co. Ltd.,
No.66, Thirumal Pillai Road,
2nd Floor, City Centre,
T.Nagar, Chennai.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.113 of 2014 dated 17.03.2017 on the file of the Motor Accident Claims Tribunal Special Sub Judge, Tiruvannamalai.

For Appellant : Mr.A.Subadra

For Respondents : Mr.N.Somasundar for R2
R1 – Set Ex-parte

JUDGMENT

The claimant not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal before this Court.



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2. The case of the claimant is that when he was riding a two wheeler bearing Reg. No.TN 32 R 7007 along with one Jeya at Salem to Coimbatore Bye-pass, at that time, the first respondent drove the car bearing Reg. No.TN 22 BA 8466 in a rash and negligent manner and dashed against the appellant, as a result of which, the claimant sustained the following injury :-

Fracture in his left thigh, left knee, left wrist, injuries in right ankle, forehead, right hand, head, right left, left thigh and nose.

3. The claimant underwent treatment as an in patient in Salem Mohan Kumaramangalam Government Medical College Hospital at Salem and in some other private hospitals. The medical board assessed 40% disability, considering the nature of injury sustained by the claimant. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.



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4. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the car and awarded a sum of Rs.1,83,000/- under various heads with interest at the rate of 7.5% per annum.

5. The claimant not being satisfied with the quantum of compensation fixed by the Tribunal has filed this appeal seeking for enhancement of compensation.

6. The learned counsel for the appellant submitted that the injured was aged about 31 years at the time of the accident and he was working as Mason. Due to the accident, he is not able to continue his avocation. The medical board assessed the disability at 40% whereas the Tribunal has awarded a sum of Rs.1,20,000/- towards disability which is very meager and also the Tribunal has awarded very less compensation in respect of extra nourishment and loss of income during treatment period. Further the Tribunal has not awarded compensation under the head



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Attender charges, which the appellant is entitled for.

7. The learned counsel appearing for the insurance company submitted that after considering the evidences and materials, the Tribunal has awarded compensation, which is perfectly in order and the same need not any interference.

8. Heard the learned counsel for appellant/claimant and the learned counsel for 2nd respondent.

9. This Court has carefully considered the submissions made on either side and the materials available on record.

10. This Court also carefully went through the award passed by the Tribunal.

11. The fact in the present case is not in dispute and the manner of the accident is also not in dispute. For enhancement of compensation, the present appeal has been filed.



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12. According to the appellant, the first respondent driving a car in rash and negligent manner and dashed against the appellant and therefore, he sustained injuries. It is the main ground of the appellant that the Tribunal has awarded very meager amount in respect of disability, extra nourishment and loss of income during the treatment period. The appellant is 31 years and he was working as a Mason and earned monthly a sum of Rs.15,000/- Even then the Tribunal has awarded a sum of Rs.3,000/- per percentage for the disability which is very meager and loss of income during the treatment period and extra nourishment awarded by the Tribunal is also very low. This Court is inclined to interfere with the same and this Court awarded a sum of Rs.4,000/- per percentage for the disability as he could not continue his avocation as a mason. Considering the nature of injuries sustained by the claimant, this Court is also inclined to modify the award for a sum of Rs.15,000/- and Rs.30,000/- (10,000 X 3 months) in respect of extra nourishment and loss of income during the treatment period which the appellant is entitled for. The Tribunal has not awarded compensation in respect of attender charges and this Court is inclined to award a sum of Rs.10,000/-. Accordingly, the award passed



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by the Tribunal stands modified as follows:

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Modified Award Amount (Rs.)</i>
Disability	1,20,000	1,60,000
Pain and suffering	40,000	40,000
Loss of income	18,000	30,000
Extra nourishment	5,000	15,000
Attender charges		10,000
Total	1,83,000	2,55,000

13. The compensation awarded by the Tribunal at Rs.1,83,000/- is enhanced to Rs. 2,55,000/-. The second respondent Insurance company is directed to deposit the entire compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



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14. In the result, the Civil Miscellaneous Appeal is partly allowed.

No costs.

22.11.2024

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

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To,
The Judge,
Motor Accident Claims Tribunal,
Special Sub Judge, Tiruvannamalai.



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M.DHANDAPANI.,J

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