



C.M.A(MD)No.354 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **14.06.2024**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.354 of 2017

A.Subramanian

... Appellant/Claimant

Vs.

1.P.Ravichandran

2.A.K.Kalaiselvan

3.The Divisional Manager,
United India Insurance Co. Ltd.,
South Main Street,
Thanjavur.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988, to allow the appeal to the effect that so as to enhance the compensation by modifying the judgment and decretal order of the learned Motor Accident Claims Tribunal [I Additional District & Sessions Judge (PCR)], Thanjavur in M.C.O.P.No.31 of 2009, dated 20.04.2010.

For Appellant : Mr.M.Karunanithi

For R1 : Mr.A.Arun Prasad

For R2 : No Appearance



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For R3 : Mr.J.S.Murali

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JUDGMENT

The present appeal has been filed by the claimant in M.C.O.P.No. 31 of 2009 on the file of Motor Accidents Claims Tribunal (I Additional District & Sessions Judge (PCR), Thanjavur seeking enhancement of compensation.

2. According to the injured claimant, while he was riding a two wheeler on 04.06.2009, a car coming from the opposite direction dashed against the two wheeler and in the said accident, he had sustained grievous injuries. According to the claimant, he was working as a Supervisor in Sri Vinayaga Earth Movers, Thanjavur and earning a sum of Rs.15,000/- per month. He claimed a compensation of Rs.25,00,000/-. The owner of the car had remained *ex parte* and the Insurance Company had filed a counter contending that the negligence is on the part of the rider of the two wheeler and therefore, they are not liable to pay compensation. They have further contended that the quantum of compensation as claimed in the claim petition is excessive.



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3. The tribunal after considering the evidence on either side arrived at a categorical finding that the accident has taken place solely due to the negligence on the part of the car driver. The tribunal had further found that the claimant had sustained 55% partial permanent disability and for every percentage of disability, a sum of Rs.1,000/- was awarded. In total, a sum of Rs.55,000/- was awarded towards partial permanent disability. The tribunal has further awarded a sum of Rs. 1,12,000/- towards medical expenses, Rs.25,000/- towards pain and suffering, Rs.2,500/- towards transport charges, a sum of Rs.6,000/- towards food and nutrition charges and Rs.9,500/- towards partial loss of income. In total, a sum of Rs.4,15,000/- was awarded. The present appeal has been filed by the claimant seeking enhancement of compensation.

4. According to the learned counsel appearing for the appellant, the tribunal ought not to have awarded merely a sum of Rs.1,000/- for 1% of disability for an accident that has taken place in the year 2009. He further sought for enhancement of compensation under the other heads also.



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5. Per contra, the learned counsel appearing for the Insurance Company had contended that the award amount is reasonable and there is no scope for enhancement.

6. I have carefully considered the submissions made on either side and perused the material records.

7. As rightly contended by the learned counsel appearing for the appellant, only a sum of Rs.1,000/- has been awarded for 1% of disability which is on the lesser side considering the fact that the accident has taken place in the year 2009. Therefore, this Court is inclined to enhance the said rate to Rs.3,000/- per one percentage of disability. Therefore, the compensation under the head of partial permanent disability is enhanced from Rs.55,000/- to Rs.1,65,000/-. Therefore, the compensation is increased from Rs.4,15,000/- (Rupees Four Lakh and Fifteen Thousand only) to Rs.5,25,000/- (Rupees Five Lakh and Twenty Five Thousand only). The Insurance Company is directed to deposit the amount along with accrued interest at the rate of 7.5% within a period of eight (8)



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weeks from the date of receipt of copy of this order.

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8. This Civil Miscellaneous Appeal stands partly allowed to the extent as stated above. No costs.

14.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

1.The Motor Accident Claims Tribunal
[I Additional District & Sessions Judge (PCR)],
Thanjavur.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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Order made in
C.M.A(MD)No.354 of 2017

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