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C.M.A.No.2022 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.2022 of 2021

Selvaraj

... Appellant

Vs.

1.Arumugam

2.The Manager,

The New India Assurance Company Limited,

No.1, Officer's Line,

Vellore.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 19.12.2019 and made in M.A.C.T.O.P.No.24 of 2019 on the file of the Motor Accident Claims Tribunal and Special Sub Judge, Tiruvannamalai.

For Appellant : Mr.A.G.F.Terry Chella Raja

For Respondents : Notice dispensed with vide

SR.No.44180 [R1]

Mr.T.Jayaraman [R2]

JUDGMENT



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The above appeal is filed by the petitioner/claimant seeking an enhancement of the compensation awarded by the Motor Accident Claims Tribunal and Special Sub Judge, Tiruvannamalai in M.A.C.T.O.P.No.24 of 2019.

2. The case of the appellant is that, on 10.11.2018 at about 09.30 p.m., when he was standing with his motorcycle bearing Regn.No.TN-25-BJ-7490 following road traffic rules, in the extreme left side of the road in soil path opposite to Sivakumar's house, near Angalamman Koil at Krishna Nagar in Chengam to Polur Road, a two-wheeler bearing Regn.No.TN-25-BD-7689, owned by the 1st respondent and insured with the 2nd respondent, driven by its driver from Chengam towards Pudhupalayam in a very rash and negligent manner, without observing any rules of the road, in high speed, lost his control and dashed against the appellant, due to which, the appellant sustained grievous injuries. Immediately, he was admitted in Government Hospital at Chengam by the people around the accident spot. Therefore, the appellant had filed a claim petition claiming a sum of Rs.50,00,000/- for the injuries sustained by him in the said road accident.



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3. Before the Tribunal, the appellant had examined himself as P.W.1 and marked 4 documents viz., Ex.P.1 to Ex.P.4. On the side of the 2nd respondent, two witnesses were examined viz., R.W.1 and R.W.2 and marked 4 documents viz., Ex.R.1 to Ex.R.4. Apart from that, one court document viz., Ex.C.1 was marked. After adjudication, the Tribunal awarded a sum of Rs.2,66,000/- as compensation to the appellant. Not satisfied with the same, the appellant has preferred the present appeal seeking enhancement.

4. Learned counsel appearing for the appellant submitted that, at the relevant point of time, per percentage of disability is Rs.8,000/-, however, the Tribunal had awarded a sum of Rs.1,20,000/- by erroneously fixing a sum of Rs.3,000/- per percentage of disability and disability at 40%, which is not sustainable and the same requires to be reconsidered by this Court. Further, the compensation awarded under the other heads is on the lower side, which requires to be enhanced. Accordingly, he prays for appropriate enhancement in favour of the appellant.



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5. Learned counsel appearing for the second respondent/Insurance Company submitted that, the amount of Rs.3,000/- awarded per percentage of disability is reasonable and so also the compensation awarded under the other heads, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.

6. Heard the learned counsel appearing for the appellant and the learned counsel appearing on behalf of the second respondent and perused the materials available on record.

7. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The only grievance of the appellant/claimant is with regard to the quantum of compensation awarded. In this regard, this Court perused Ex.C.1, which is the disability certificate of the appellant issued by the Medical Board and the same reveals that the appellant had suffered disability of 40%. By accepting the said certificate, the Tribunal, had erroneously adopted a sum of Rs.3,000/- per percentage of disability and awarded a sum of Rs.1,20,000/- towards permanent disability. However, as per the existing law at the relevant point of time, the Tribunal ought to have fixed a sum



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of Rs.8,000/- per percentage of disability. Hence, this Court is inclined to fix a sum of Rs.8,000/- per percentage of disability. Therefore, the amount under the head of permanent disability stands enhanced to a sum of Rs.3,20,000/- (40 x Rs.8,000/- = Rs.3,20,000/-).

8. Further, the Tribunal had awarded a sum of Rs.50,000/- towards pain and sufferings; Rs.30,000/- towards loss of amenities; Rs.30,000/- towards Extra Nourishment and damages to articles; Rs.5,000/- towards attendant charges; Rs.5,000/- towards transportation and Rs.26,000/- towards loss of income. This Court finds that the compensation awarded under the head extra nourishment and damages to articles is just and reasonable and the same is confirmed. Insofar as the compensation awarded towards pain and sufferings, attendant charges, transportation and loss of income are concerned, this Court feels that a sum of Rs.75,000/-, Rs.20,000/-, Rs.10,000/- and Rs.40,000/- respectively would be just and reasonable compensation.

9. Insofar as the compensation awarded under the head loss of amenities, no compensation can be awarded under such head as the same is not a conventional head, which attract any compensation. Therefore,



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the compensation awarded under the said head is accordingly set aside.

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10. In view of the above, the compensation awarded by the Tribunal is modified as under :-

<i>S. No.</i>	<i>Description</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
1	Permanent Disability (40 x Rs.8,000/-)	1,20,000/-	3,20,000/- (enhanced)
2	Pain and sufferings	50,000/-	75,000/- (enhanced)
3	Loss of amenities	30,000/-	---
4	Extra Nourishment and damages to articles	30,000/-	30,000/-
5	Attendant charges	5,000/-	20,000/- (enhanced)
6	Transportation	5,000/-	10,000/- (enhanced)
7	Loss of income (4 months)	26,000/-	40,000/- (enhanced)
	Total	2,66,000/-	4,95,000/-

11. Accordingly, this Civil Miscellaneous Appeal is partly allowed and the impugned award is modified, enhancing the compensation amount from **Rs.2,66,000/-** to **Rs.4,95,000/-**. The second respondent/Insurance Company is directed to deposit the compensation amount, awarded by this Court, to the credit of M.A.C.T.O.P.No.24 of 2019 along with interest at the rate of 7.5% per annum from the date of



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claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four weeks (4) from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellant/claimant through RTGS within a period of two (2) weeks thereafter upon production of proof with regard to payment of Court fee on the enhanced compensation. The appellant/claimant is directed to pay necessary additional Court fee on the enhanced compensation amount. No costs.

06.01.2025

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To

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



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M.DHANDAPANI, J.

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