



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.07.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.171 of 2014

S.K.Arumugam

... Appellant / Petitioner

Vs.

1. M.Selvarani

2. The Reliance General Insurance Co Ltd,
Rep by its Manager,
No. 15-A, P.L.A. Kanaga Towers,
11th Cross Road,
Thillai Nagar,
Trichy 18.

...Respondents / Respondents

(The 1st respondent in the above Original Claim
Petition was set ex-parte and hence he is not a
necessary party and no notice need be sent to the
first respondent)

PRAYER:- Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the order and decree of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Sivagangai, in M.C.O.P.No.93 of 2011, dated 13.02.2013.

For Appellant : Mr.S.Pugalendhi

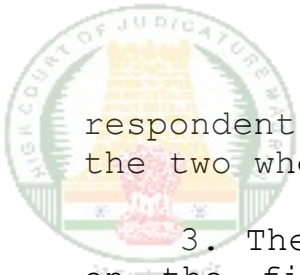
First respondent : Set ex-parte before the Tribunal

For R-2 : Mrs.K.R.Shivashankari

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/claimant against the award of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Sivagangai passed in M.C.O.P.No.93 of 2011, dated 13.02.2013.

2. It is a case of injury sustained in the accident took place on 20.02.2010 at about 7.30 p.m., at Abiramam to Paramakudi Road at Pethanenthal Vilakku Road. The accident occurred when the appellant/claimant drove the two wheeler bearing Registration No.IN 65-H/5339 in the above said road, the TATA ACE bearing Registration No.TN 65/Z 6106, which is insured with the second



respondent, came in a rash and negligent manner and dashed against the two wheeler and caused the accident.

3. The claimant filed an application in M.C.O.P.No.93 of 2011 on the file of the the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Sivagangai, seeking compensation.

4. Before the Tribunal, the appellant/claimant examined two witnesses as P.Ws.1 and 2 and marked twelve documents as Ex.P.1 to Ex.P.12. The second respondent/Insurance Company did not let in any oral or documentary evidence before the Tribunal.

5. The Tribunal, after considering the pleadings, oral and documentary evidence and the arguments advanced on either side and also appreciating the evidence on record, held that the accident occurred only, due to the rash and negligent driving of the driver of the TATA ACE and therefore directed the second respondent/Insurance Company to pay a sum of Rs.1,63,750/-, as compensation.

6. Against which, the appellant/claimant filed this present appeal seeking enhancement of compensation.

7. The learned counsel for the appellant/claimant would submit that the victim sustained injuries and he was treated by P.W.2-Doctor. The Doctor had issued the Disability Certificate under Ex.P12 assessing the partial disability at 56% and assessing the permanent disability at 5%. But, the Tribunal fixed the disability at 52% and awarded Rs.78,000/- for disability. The learned counsel for the appellant relied on the Judgment rendered in **P.Elangovan vs. S.Murali and two others** reported in **2017 (1) TN MAC 251**, wherein it has been held that a sum of Rs.3,000/- should be fixed for 1% disability, but the Tribunal had awarded only a sum of Rs.78,000/- for disability of 52%.

8. Considering the above submission, this Court fixes a sum of Rs.3,000/- (Rupees Three Thousand Only) for 1% disability and awards a rounded of amount of Rs.1,60,000/- (Rupees One Lakh and Sixty Thousand Only), towards disability.

9. Further, the sum of Rs.5,000/- (Rupees Five Thousand only) awarded by the Tribunal towards extra nourishment, is on the lower side and therefore, the same is enhanced to a sum of **Rs.15,000/-** (Rupees Fifteen Thousand only).

10. Similarly, the Tribunal has not awarded any compensation towards loss of amenities. Therefore, a sum of **Rs.10,000/-** (Rupees Ten Thousand only) is awarded by this Court.

11. Further, the Tribunal has not awarded any compensation



towards transportation. Therefore, a sum of **Rs.10,000/-** (Rupees Ten Thousand only) is awarded by this Court and the other heads are confirmed.

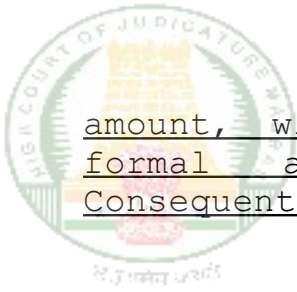
12. In view of the settled position of law, this Court modifies the award of the Tribunal by enhancing the compensation, as under:-

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For permanent disability (52%)	78,000	1,60,000	enhanced
2.	For pain and sufferings	25,000	25,000	confirmed
3.	For Extra Nourishment	5,000	15,000	enhanced
4.	For loss of amenities		10,000	awarded
5.	For medical bills	55,750	55,750	confirmed
6.	For Transportation		10,000	awarded
	Total	Rs.1,63,750	Rs.2,75,750	By enhancing a sum of Rs.1,12,000/-

13. In the result,

(i) This Civil Miscellaneous Appeal is partly allowed, enhancing the award of the Tribunal from Rs.1,63,750/- (Rupees One Lakh Sixty Three Thousand Seven Hundred and Fifty only) to a sum of **Rs.2,75,750/-** (Rupees Two Lakhs Seventy Five Thousand Seven Hundred and Fifty only) along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs;

(ii) The second respondent/Insurance Company is directed to deposit the entire award amount Rs.2,75,750/- (Rupees Two Lakhs Seventy Five Thousand Seven Hundred and Fifty only) with accrued interests and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant/claimant is permitted to withdraw the entire award



amount, with accrued interests and costs, without filing any formal application before the Tribunal. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Co)

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/True copy/

Sub Assistant Registrar

To,

1. The Motor Accident Claims Tribunal
(Chief Judicial Magistrate), Sivagangai.

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

+1 cc to Mr.S.Pugalendhi , Advocate in SR.No. 65974

+1 cc to Mr.S.Srinivasa Raghavan , Advocate in SR.No. 66104

AE/JC/SAR3/02.08.2017/4P/5C

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