



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.08.2017

CORAM

THE HONOURABLE MRS. JUSTICE J. NISHA BANU

C.M.A (MD) No. 612 of 2017

WEB COPY

M. Ponnusamy

... Appellant / Petitioner

Vs.

1. E. Dhanapal

2. The Divisional Manager
National Insurance Co., Ltd.,
Divisional Office,
No. 127, Aruvi Block,
First Floor, St. Paul's Complex,
Bharathiyar Salai,
Trichy - 1.

... Respondents / Respondents

(1st Respondent set ex-parte
before the Tribunal. Hence, 1st Respondent
may be dispensed with)

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree made in M.C.O.P.No.319 of 2013, dated 10.04.2015, on the file of the Motor Accident Claims Tribunal/Sub-Court, Kulithalai, Karur District.

For Appellant	: Mr. N. Sudhagar Nagaraj
For R1	: Ex parte
For R2	: Mr. A. Ilango

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/claimant against the award and decree made in M.C.O.P.No.319 of 2013, dated 10.04.2015, on the file of the Motor Accident Claims Tribunal/Sub-Court, Kulithalai, Karur District, seeking enhancement of compensation.

2. The brief facts of the case are as follows:

It is a case of injury caused in the accident took place on 02.09.2013 at about 7.45 a.m. in Mattaparaipatti to Kosoor road, near Samuthayakalam at Mozuvanur. The driver of college bus bearing Registration No. TN-47-M-4334, which was owned by the first respondent and insured with the second respondent Insurance Company, drove the bus in a rash and negligent manner and hit against the petitioner, who was riding his bicycle proceeding the same direction. Due to the said impact, the petitioner sustained injuries and multiple fractures both bone in his left leg, left femur and right femur and right inferior public ramus.



Immediately after the accident, the petitioner was admitted in the Government Hospital, Manapparai and for better treatment, he was admitted in a private hospital at Dindigul. Due to the said accident, the left leg of the petitioner was amputated. The petitioner was earning a sum of Rs.9,000/- per month by working as a load man. Hence, he filed a claim petition in M.C.O.P.No.319 of 2013, on the file of the Motor Accident Claims Tribunal/Subordinate Court, Kulithalai, Karur District claiming a sum of Rs.15,00,000/- as compensation.

3. Before the Tribunal, on the side of the claimant, two witnesses viz., P.Ws.1 and 2 were examined and 12 documents viz., Exs.P.1 to P.12 were marked and on the side of the respondents, neither any witness was examined and nor any document was marked.

4.The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel appearing 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 offending vehicle and directed the Insurance Company to pay a sum of Rs.10,12,780/-, as compensation under the following heads:

for loss of income	= Rs.6,33,600/-
for pain and sufferings	= Rs. 25,000/-
for medical expenses	= Rs.1,54,400/-
for medical bills	= Rs.1,10,100/-
for x-ray and blood test expenses	= Rs. 4,730/-
for expenses towards purchase of blood	= Rs. 28,950/-
for loss of income during the treatment period	= Rs. 6,000/-
for attendant charges	= Rs. 5,000/-
for transport expenses	= Rs. 10,000/-
for extra nourishment	= Rs. 5,000/-
for future medical expenses for removing the iron rod	= Rs. 30,000/-

Total	= Rs.10,12,780/-

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

6. The learned Counsel for the appellant would submit that while arriving loss of income, the Tribunal has not taken 50% of the monthly income of the appellant/claimant for future prospects and hence, the amount awarded under the head of loss of income should be modified. He further submitted that the amount awarded by the Tribunal under the various heads also very meagre. Hence,



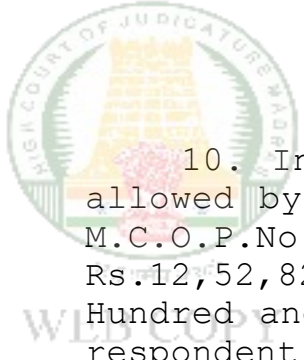
he prays this Court for enhancing the compensation.

7. The learned counsel for the second respondent Insurance Company would submit that based on the available oral and documentary evidences, the Tribunal has arrived at just and proper compensation under various heads. Hence, he prays for dismissal of this appeal.

8. Heard the learned counsel appearing on both sides and perused the materials available on record.

9. As contended by the learned Counsel for the appellant/claimant, since the Tribunal has not taken into account the future prospects for arriving at loss of income, this Court is inclined to add 15% of the monthly income of the appellant/claimant for arriving loss of income. If that being so, the loss of income would be arrived at Rs.6900/- $\times 12 \times 11 \times 80 / 100$ = Rs.7,28,640/-. This Court also feels that the amount awarded towards pain and sufferings is a meagre, since the appellant/claimant underwent grievous injuries in his leg and he should have much pain and sufferings. Hence, this Court is inclined to enhance the amount from Rs.25,000/- to Rs.1,00,000/- Likewise, the amounts awarded under the heads of attendant charges, transport expenses, for extra nourishment and for future medical expenses for removing the iron rod fixed in his leg are very meagre, taking into account the period of treatment taken by the appellant/claimant as inpatient. Hence, this Court is inclined to enhance the same to Rs.25,000/-; Rs.20,000/-; Rs.25,000/- and Rs.50,000/- respectively. The amount awarded by the Tribunal under other heads stand unaltered. Therefore, this Court enhanced the compensation from Rs.10,12,780/- to Rs.12,52,820/- under the following heads:

for loss of income	= Rs.7,28,640/-
for pain and sufferings	= Rs.1,00,000/-
for medical expenses	= Rs.1,54,400/-
for medical bills	= Rs.1,10,100/-
for x-ray and blood test expenses	= Rs. 4,730/-
for expenses towards purchase of blood	= Rs. 28,950/-
for loss of income during the treatment period	= Rs. 6,000/-
for attendant charges	= Rs. 25,000/-
for transport expenses	= Rs. 20,000/-
for extra nourishment	= Rs. 25,000/-
for future medical expenses for removing the iron rod	= Rs. 50,000/-
Total	= Rs.12,52,820/-



10. In the result, this Civil Miscellaneous Appeal is partly allowed by enhancing the compensation awarded by the Tribunal in M.C.O.P.No.319 of 2013, dated 10.04.2015, from Rs. 10,12,780/- to Rs.12,52,820/- (Rupees Twelve Lakhs Fifty Two Thousand Eight Hundred and Twenty Only) with 7.5% interest per annum. The second respondent Insurance Company is directed to deposit the entire award amount with accrued interests and costs, within a period of eight weeks from the date of receipt of a copy of this order, if not already deposited and less the amount already deposited and on such deposit being made the appellant/claimant is permitted to withdraw entire award amount with accrued interests and costs without filing any formal petition before the Tribunal. No Costs.

Sd/-

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To

1. The Subordinate Judge /
Motor Accident Claims Tribunal,
Kulithalai, Karur District.

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

+ 2 CC TO MR.N.Sudhagar Nagaraj, ADVOCATE IN SR No.69260

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MK/KP/SAR-2/05.10.2017/4P/5C

C.M.A(MD)No.612 of 2017

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