



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.644 of 2017

Saravanan

... Appellant / Petitioner

Vs.

1.M.Mahesh

2.T.Satheesh Kumar

3.The Managing Director,

The New India Assurance Co.Ltd,

Represented by Branch Manager,

Nagercoil Village, Agastheeswaram Taluk,

Kanyakumari District.

...Respondents / Respondents

(1st and 2nd respondent stood ex-parte
before the Tribunal)

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award dated 28.10.2015 passed in M.C.O.P.No.7 of 2015 on the file of the Motor Accidents Claims Tribunal-cum-Special Judge Nagercoil, insofar as it related to the enhancement of compensation as awarded is concerned, by allowing the Civil Miscellaneous Appeal.

For Appellant :Mr.G.Aravinthan

For R-1 and R-2 :No appearance

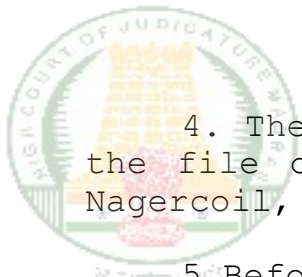
For R-3 :Mr.A.Ilango

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/claimant against the award of the Motor Accident Claims Tribunal-cum-Special Judge, Nagercoil passed in M.C.O.P.No.7 of 2015, dated 28.10.2015.

2. It is a case of injury sustained by the injured/claimant in an accident, which took place on 09.04.2014 at about 12.45 hours at Nagercoil to Thituvilai road, near Erachakulam in front of J.S.Mahal.

3. It is the case of the claimant before the Tribunal that on the date of accident, when he was going in his two wheeler on the left side of the road in front of J.S.Mahal, the Maruthi Car belonging to the second respondent and insured with the third respondent, which came from the opposite direction in a rash and
<https://hccs.cerisc.gov.in/theservice> dashed against the two wheeler and caused the accident and in the said accident, the injured/claimant sustained grievous injuries.



4. The claimant filed an application in M.C.O.P.No.7 of 2015 on the file of the Motor Accident Claims Tribunal-cum-Special Judge, Nagercoil, seeking compensation.

5. Before the Tribunal, on the side of the injured/claimant three witnesses were examined as P.Ws.1 to 3 and ten documents were marked as Ex.P1 to P10. The respondents did not let in any oral or documentary evidences.

6. 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 Maruthi Car, belonging to the second respondent and insured with the third respondent and therefore, directed the third respondent/Insurance Company to pay a sum of Rs.2,21,000/- as total compensation.

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

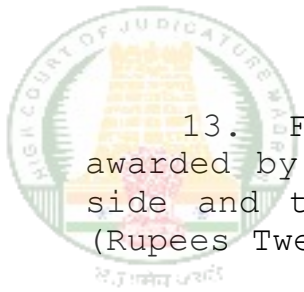
8. The learned counsel for the appellant/claimant would submit that the victim sustained injuries and he was treated by P.W.2-Doctor. The Doctor had issued the Disability Certificate under Ex.9 assessing the permanent disability at 30% and he had taken treatment for a period of six months and at the time of accident, the injured was earning a sum of Rs.15,000/- per month, but the Tribunal without considering the same, the Tribunal has taken a sum of Rs.8,000/- as monthly income and awarded only a meagre sum and therefore, the compensation awarded by the Tribunal is to be enhanced.

9. The learned counsel appearing for the third respondent submitted that the Tribunal awarded double compensation for the same injuries under two heads, namely, 'for injuries' and 'for disability' and therefore, the compensation awarded 'for injuries' is to be deleted.

10. I find some force in the submissions made by the learned counsel for the third respondent and therefore, the compensation of Rs.31,000/- awarded towards injuries is deleted and the compensation of Rs.90,000/- (Rupees Ninety Thousand) awarded towards 'permanent disability' is confirmed.

11. Further, the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) awarded by the Tribunal towards pain and sufferings, is on the lower side and therefore, the same is enhanced to a sum of **Rs.50,000/-** (Rupees Fifty Thousand only).

12. Further, the sum of Rs.14,000/- (Rupees Fourteen Thousand only) awarded by the Tribunal towards Transportation, is on the lower side and therefore, the same is enhanced to a sum of **Rs.20,000/-** (Rupees Twenty Thousand only).



13. Further, the sum of Rs.10,000/- (Rupees Ten 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.20,000/-** (Rupees Twenty Thousand only).

14. Further, the sum of Rs.48,000/- (Rupees Forty Eight Thousand only) awarded by the Tribunal towards loss of income, is on the lower side and therefore, by taking a sum of Rs.15,000/- as monthly income of the injured, the compensation awarded for loss of income for six months is enhanced from Rs.48,000/- to a sum of **Rs.90,000/-** (Rupees Ninety Thousand only).

15. Similarly, the Tribunal has not awarded any compensation towards future medical expenses. Therefore, a sum of **Rs.25,000/-** (Rupees Twenty Five Thousand only) is awarded by this Court and the compensation awarded for loss of estate is confirmed.

16. 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	90,000	90,000	confirmed
2.	For pain and sufferings	25,000	50,000	enhanced
3.	For Transportation	14,000	20,000	enhanced
4.	For Extra Nourishment	10,000	20,000	enhanced
5.	For loss of estate	3,000	3,000	confirmed
6.	For Loss of Income	48,000	90,000	Enhanced
7.	For future medical expenses	-	25,000	awarded
8.	For injuries	31,000	-	deleted
	Total	Rs.2,21,000	Rs.2,98,000	By enhancing a sum of Rs77,000/-

17. In the result,

(i) This Civil Miscellaneous Appeal is partly allowed, enhancing the award of the Tribunal from **Rs.2,21,000/-** (Rupees Two Lakhs and Twenty One Thousand only) to a sum of **Rs.2,98,000/-** (Rupees Two Lakhs and Ninety Eight Thousand 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 third respondent/Insurance Company is directed to deposit the entire award amount of **Rs.2,98,000/-** (Rupees Two Lakhs and Ninety Eight Thousand only) with accrued interests and costs, less the amount already deposited, if any, within a period of eight 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.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To,

The Motor Accidents Claims Tribunal-cum-Special Judge,
Nagercoil.

+1cc to Mr.G.ARAVINTHAN Advocate in SR. No. 77979

PM

JS/SKN.RSK/SAR.2/11.10.2017/4P-3C

C.M.A(MD) No.644 of 2017
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