



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.09.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.47 of 2015

Mahendran

... Appellant/Petitioner

Vs.

1.Gurusamy

2.United India Insurance Company Ltd,
Branch Manager,
No.37/2, Mattappa Street,
2nd floor, Neel Complex,
Tenkasi

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow this appeal and enhance the award amount in MCOP.No.47 of 2013 on the file of the Motor Accident claims Tribunal, (Principal Subordinate Judge), Tirunelveli, dated 23.04.2014.

For Appellant	: Mr.T.Selvakumaran
For R-1	: No Appearance
For R-2	: Mr.A.S.Mathialagan

J U D G M E N T

The Civil Miscellaneous Appeal has been filed by the appellant/claimant against the award of the Motor Accident Claims Tribunal (Principal Subordinate Judge), Tirunelveli, passed in M.C.O.P.No. 47 of 2013, dated 23.04.2014.

2. It is the case of a fatal accident which took place on 18.12.2012 at about 18.30 hours on Vadakarai - Panpozhi main road.

3. It is the case of the claimant before the Tribunal that when the petitioner Mahendran was riding his TVS Sport Motor cycle bearing Registration No. TN 76 L 2979, from East to West on Vadakarai - Panpozhi main road, the driver of the auto bearing Registration No. TN 76 D-6908, drove the auto in a rash and negligent manner and dashed against the two wheeler and due to which the petitioner was thrown out of the two wheeler. As a result of the accident, the petitioner sustained Multiple grievous injuries all over the body and sustained fractures and became functionally disabled.



4. The claimant filed application in M.C.O.P.No.47 of 2013 on the file of the Motor Accident Claims Tribunal/ Principal Sub Judge, Tirunelveli, seeking compensation.

5. Before the Tribunal, the appellant/claimant examined three witnesses as P.W.1 to P.W.3 and marked nine documents as Ex.P.1 to Ex.P.9. On the side of the respondents, they did not let in any oral and documentary evidence.

6. The Tribunal, after considering the pleadings, oral and documentary evidence and the arguments advanced on either side and also on appreciating the evidence on record, held that the accident occurred only due to the rash and negligent driving of the first respondent/ driver of the auto bearing Registration No.TN 76 D-6908, and therefore directed the second respondent to pay a sum of Rs.2,22,640/- to the claimant as compensation.

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

8. This Court heard the submissions made on either side and perused the materials available on record.

9. The learned counsel for the appellant/claimant would submit that the Tribunal ought to have seen that the injured claimant is a coconut tree climber and due to the disability he is not able to continue his work. The amounts awarded by the Tribunal are on lower side and the Tribunal ought to have adopted multiplier method. Therefore, the compensation awarded by the Tribunal has to be enhanced.

10. The learned counsel appearing for the second respondent/ Insurance Company submitted that the Tribunal awarded a just and reasonable compensation and the same does not warrant interference.

11. The tribunal has awarded Rs.12,000/- towards loss of income and the same is enhanced as Rs.72,000/- (12 X Rs.6000) as the petitioner has stated in the claim petition that he was earning Rs.6,000/- per month. The tribunal has awarded Rs.15,000/- towards pain and sufferings and considering the injuries he sustained and the treatment he underwent, the same is enhanced to Rs.1,00,000/-. The Tribunal has awarded each Rs.5,000/- towards nutritious food and Transportation and the same are enhanced to each Rs.25,000/-. The Tribunal has not awarded any compensation towards loss of amenities and attendant charges and this Court awards Rs.5,000/- and Rs.25,000/- receptively towards the same. Services rendered by the Tribunal under other heads are hereby confirmed.

12. This Court modifies the award of the Tribunal by enhancing the compensation as under:-

S.No	Description	By Tribunal (Rs)	By this Court (Rs)	Result
1	Loss of income	12,000	72,000	Enhanced
2	Pain and sufferings	15,000	1,00,000	Enhanced
3	Medical expenses	32,140	32,140	Confirmed
4	Mental agony	5,000	5,000	confirmed
5	disability	1,48,500	1,48,500	Confirmed
6	Nutritious foods	5,000	25,000	Enhanced
7	Attendant charges	--	25,000	Awarded
8	Loss of amenities	---	5,000	Awarded
9	Transportation	5,000	25,000	Enhanced
	Total	2,22,640	4,37,640	By enhancing Rs.2,15,000

13. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed, by enhancing the award of the Tribunal from Rs.2,22,640/- (Rupees Two lakhs twenty two thousand six hundred and forty only) to a sum of Rs.4,37,640 /- (Rupees Four lakhs thirty seven thousand six hundred and forty 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 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.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar



To

The Motor Accident Claims Tribunal/
Principal Sub Court, Tirunelveli.

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+1cc to Mr.T.Selvakumaran, Advocate Sr.No.79981

+1cc to Mr.A.S.Mathialagan, Advocate Sr.No.79484

DSK/RMK

VB/SKN/RSK/SAR2/30.10.2017/4P/4C

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