



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.08.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.722 of 2014

P.Rengasamy

... Appellant / Petitioner

Vs.

1.The Government of Tamil Nadu
rep. by the Joint Director (Medicine)
Government Hospital
Thiruvannamalai District.

2.The Branch Manager
ICICI Lombard Insurance Company Limited
Mumbai. ...Respondents / Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the award and decretal award dated 14.08.2013 made in MCOP No.14 of 2011 on the file of the Motor Accidents Claims Tribunal/Additional District Judge, Pudukottai.

For Appellant	: Mr.R.Devaraj
For 1 st Respondent	: Mr.R.Velmurugan Government Advocate
For 2 nd Respondent	: No appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant against the judgment and award of the Motor Accident Claims Tribunal/Additional District Judge, Pudukottai, in M.C.O.P.No. 14 of 2011, dated 14.08.2013.

2. It is a case of injury sustained by the appellant/claimant, in an accident, which took place on 17.11.2009 at about 6.30 p.m., at Aranthangi Agni Bazaar near Periya pallivaasal.

3. It is the case of the injured/claimant before the Tribunal that when he was travelling as a pillion rider in a two-wheeler Bajaj C.T.100 bearing registration No.TN 55 K 6957 along with one Selvaraj, the driver of the first respondent drove the vehicle in a rash and negligent manner and dashed against the two wheeler and in that accident, the injured sustained grievous injuries.

<https://hcservices.ecourts.gov.in/hcservices/>

4.The injured claimant filed an application in M.C.O.P.No.14 of 2011, on the file of the Motor Accidents Claims Tribunal/Additional

District Judge, Pudukottai, seeking compensation.

5. Before the Tribunal, the injured/claimant examined two witnesses as P.Ws.1 and 2 and marked seventeen documents as Ex.P.1 to Ex.P.17. The respondents did not let in any oral or documentary evidence before the Tribunal.

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 first respondent and therefore, directed the second respondent/Insurance Company to pay compensation of Rs.2,50,000/-.

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.P16 assessing the partial permanent disability at 30% and for which, the Tribunal awarded Rs.60,000/- (30 X 2000) 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.

9. Considering the above submission, this Court fixes a sum of Rs.3,000/- (Rupees Three Thousand Only) for 1% disability and awards a sum of Rs.90,000/- (Rupees Ninety Thousand Only), towards disability.

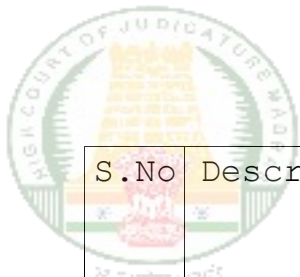
10. Further, the sum of Rs.10,000/- (Rupees Ten Thousand only) awarded by the Tribunal towards transportation and extra nourishment is on lower side and therefore, the same is enhanced to a sum of **Rs.20,000/-** (Rupees Twenty Thousand only).

11. Similarly, the Tribunal has not awarded any compensation towards attendant charges. Therefore, a sum of **Rs.5,000/-** (Rupees Five Thousand only) is awarded by this Court.

12. Similarly, the Tribunal has not awarded any compensation towards loss of income. Therefore, a sum of **Rs.30,000/-** (Rupees Thirty Thousand only) is awarded by this Court.

13. Similarly, the Tribunal has not awarded any compensation towards future medical expenses. Therefore, a sum of **Rs.50,000/-** (Rupees Fifty Thousand only) is awarded by this Court and the amount awarded under the other heads are confirmed.

14. 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 medical expenses	80,000	80,000	confirmed
2.	For disability	60,000	90,000	enhanced
3.	For Transportation and extra nourishment	10,000	20,000	enhanced
4.	For loss of amenities	50,000	50,000	confirmed
5.	For pain and suffering	50,000	50,000	confirmed
6.	For attendant charges		5,000	awarded
7.	For loss of income		30,000	awarded
8.	For future medical expenses		50,000	awarded
	Total	Rs.2,50,000	Rs.3,75,000	By enhancing a sum of Rs.1,25,000/-

15. In the result,

(i) This Civil Miscellaneous Appeal is partly allowed, enhancing the award of the Tribunal from **Rs.2,50,000/-** (Rupees Two Lakhs and Fifty Thousand only) to a sum of **Rs.3,75,000/-** (Rupees Three Lakhs and Seventy Five 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 second respondent/Insurance Company is directed to deposit the entire award amount of **Rs.3,75,000/-** (Rupees Three Lakhs and Seventy Five 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(CO)

/True Copy/

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Sub Assistant Registrar

To,

1.The Motor Accident Claims Tribunal
The Additional District Judge, Pudukottai,

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

+1cc to Mr.R.DEVARAJ Advocate in SR. No. 72711

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No. 72386

PM

JS/MR.KKR/SAR.2/8.9.2017/4P-5C

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