



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.734 of 2015

Muthaiah ... Appellant /Petitioner
Vs.

1.Thirugnanam

(1st respondent is given up as he was set ex-parte
before the Tribunal)

2.The Branch Manager,
Cholamandalam General Insurance Co. Ltd,
Dindigul High Road,
SRI END Hospital,
Keelavasal,
Madurai Town & District.

...Respondents / Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 09.04.2014 in M.C.O.P.4 of 2013 on the file of the Motor Accident Claims Tribunal, Sub-Court, Pudukottai.

For Petitioner :Mr.N.Balakrishnan
R-1 Given Up
For R-2 :Mrs.K.R.Shiva Shankari for
Mr.S.Srinivasa Raghavan

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 (Subordinate Court, Pudukottai) passed in M.C.O.P.No.4 of 2013, dated 09.04.2014.

2. It is a case of injury sustained by the injured/claimant in an accident, which took place on 21.11.2012 at about 7.45 p.m., at Mazhayur to Karambakkudi main road, near Maravankollai Bus Stop.

3. It is the case of the injured/claimant before the Tribunal that the accident occurred when the injured travelled as a pillion rider in the Hero Honda two wheeler bearing Registration No.TN 55-B 4590 in the above said road, the TATA ACE bearing Registration



No.TN 39 AQ 1074, which is insured with the second respondent, came in a rash and negligent manner and dashed against the two wheeler and caused the accident and in the said accident, the injured sustained injuries.

4. The claimant filed an application in M.C.O.P.No.4 of 2013 on the file of the the Motor Accident Claims Tribunal (Subordinate Court, Pudukottai), seeking compensation.

5. Before the Tribunal, the appellant/claimant examined three witnesses as P.Ws.1 to P.Ws.3 and marked thirteen documents as Ex.P.1 to Ex.P.13. On the side of the respondents two witnesses were examined as R.Ws.1 and R.Ws.2 and marked two documents as R.Ws.1 and R.Ws.2.

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 TATA ACE and therefore, directed the second respondent/Insurance Company to pay a sum of Rs.1,05,000/-, as 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.3-Doctor. The Doctor had issued the Disability Certificate under Ex.P13 assessing the permanent disability at 40%. But, the Tribunal awarded Rs.80,000/- (Rs.40 X 2000). 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 an amount of Rs.1,20,000/- (Rupees One Lakh and Twenty Thousand Only), towards permanent disability.

10. Further, the sum of Rs.10,000/- (Rupees Ten 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).

11. 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.10,000/-** (Rupees Ten Thousand only).



12. Further, the sum of Rs.5,000/- (Rupees Five Thousand only) awarded by the Tribunal towards Transportation, is on the lower side and therefore, the same is enhanced to a sum of **Rs.10,000/-** (Rupees Ten Thousand only).

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

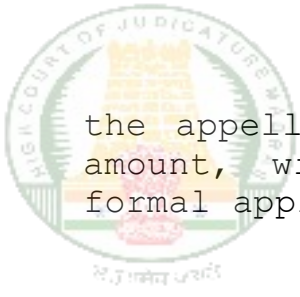
14. In view of the settled position of law, this Court modifies the award of the Tribunal by enhancing the compensation, as under:-

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For permanent disability	80,000	1,20,000	enhanced
2.	For pain and sufferings	10,000	50,000	enhanced
3.	For Extra Nourishment	5,000	10,000	enhanced
4.	For transportation	5,000	10,000	enhanced
5.	For medical expenses	5,000	5,000	confirmed
6.	For future medical expenses	-	5,000	awarded
	Total	Rs.1,05,000	Rs.2,00,000	By enhancing a sum of Rs.95,000/-

15. In the result,

(i) This Civil Miscellaneous Appeal is allowed, enhancing the award of the Tribunal from **Rs.1,05,000/- (Rupees One Lakh and Five Thousand only)** to a sum of **Rs.2,00,000/- (Rupees Two Lakhs 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.2,00,000/- (Rupees Two Lakhs 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.

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Sd/-
Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar

To,

1.The Sub Judge, Motor Accident Claims Tribunal
Pudukottai

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

+1cc to M/S.S.SRINIVASA RAGHAVAN, Advocate SR.No.78250

pm

MAS/SKN-RSK/SAR2:12.10.2017:4P-4C

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