

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 01.11.2017****CORAM :****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****C.M.A. (MD) No.934 of 2015**

R.V.Chandrasekar @ Chandrasekaran ... Appellant/Claimant

Vs.

1. M.Natchimuthu

2. The New India Assurance Company Ltd.,
by its Divisional Manager,
242B, Kamarajar Salai,
Madurai-9.

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 28.04.2015 made in M.C.O.P No.791 of 2006 on the file of the Learned V Additional District Judge, Madurai.

For Appellants : Mr.K.Murugesan

For R.2 : Mr.J.S.Murali

For R.1 : No Appearance

JUDGMENT

Heard the learned counsel on either side.

2.The claimant has filed this Civil Miscellaneous Appeal seeking enhancement of the compensation awarded by the Tribunal dated 28.04.2015 made in M.C.O.P No.791 of 2006 on the file of the Learned V Additional District Judge, Madurai. The claimants claimed a sum of Rs.4,00,000/-. But, the Tribunal awarded only a sum of Rs.1,66,000/-.

3.It is seen that the accident that took place on 25.12.2015 at about 00.30 hrs. The claimant lost his vision in his right eye. There was an accident involving collision between the auto in which the petitioner was a driver and the lorry insured with the second respondent herein. The learned counsel appearing for the appellant contended that the quantum of compensation is inadequate. Hence, the present appeal has been filed.

4.The learned counsel appearing for the claimant would place reliance on Schedule 1 of the Workmen's Compensation Act. According to which, loss of sight to such an extent as to render the claimant unable to perform any work for which eye-sight is essential, the loss of earning capacity should be taken as 100%. In the present case, the Tribunal has awarded under percentage basis. Therefore, the given compensation has to be re-worked as under:

Sl.No	Heads	Amount in Rupees
1.	Transportation	Rs.3,000/-
2.	Extra Nourishment	Rs.5,000/-
3.	Cost of Attender	Rs.5,000/-
4.	Pain and Suffering	Rs.20,000/-
5.	Loss of amenities and future medical expenses	Rs.25,000/-
6.	Loss of earning capacity	Rs.3,42,000
	Total	Rs.4,00,000/-

5.It is seen that the appellant herein sought a sum of Rs.4,00,000/- before the Tribunal, even before this Court, the claim has been restricted to sum of Rs.2,34,000/-.

6.The compensation awarded by the Tribunal is enhanced from Rs.1,66,000/- to Rs.4,00,000/-. The order dated 28.04.2015 made in M.C.O.P No.791 of 2006 on the file of the Learned V Additional District Judge, Madurai is accordingly modified.

7.The second respondent insurance company is directed to deposit the entire compensation amount with interest at the rate of 7.5% per annum with costs, from the date of petition till the date of realization, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the claimant is entitled to withdraw the same, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal.

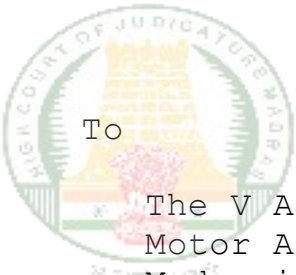
8.The Civil Miscellaneous Appeal is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar



To

The V Additional District Judge,
Motor Accident Claims Tribunal,
Madurai.

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Copy to

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

+1cc to Mr.K.Murugesan, Advocate Sr.No.85093
+1cc to Mr.J.S.Murali, Advocate Sr.No.84979

KMI/DSS

VB/KP/SAR3/20/12/2017/3P/5C

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