



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.09.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.1548 of 2013

Jameela Beevi

... Appellant/Claimant

**Vs.**

1. Manikandan

2. The Branch Manager,  
National Insurance Company Ltd.,  
Tiruchirappalli.

(R1 was set ex-parte by the Tribunal and  
hence notice to R1 may be given up)

...Respondents / Respondents

**PRAYER:-** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree passed in M.C.O.P.No.262 of 2010 on the file of the Motor Accident Claims Tribunal, Pudukottai (Sub Court, Pudukottai) dated 08.06.2013.

|               |                              |
|---------------|------------------------------|
| For Appellant | : Mr.P.Ganapathi Subramanian |
| For R-1       | : Set ex-parte               |
| For R-2       | : Mr.D.Sivaraman             |

### 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, Pudukottai (Sub Court, Pudukottai) passed in M.C.O.P.No.262 of 2010 dated 08.06.2013.

2. It is a case of injury sustained by the injured in the accident, which took place on 26.06.2009 at about 7.30 p.m., at Trichy to Pudukottai Main Road, near Subramaniyapuram bus-stop.

3. It is the case of the claimant before the Tribunal that on the date of accident, when the injured was standing on the left side of the road, the first respondent drove the Hero Honda motorcycle bearing registration No.TN TCM 2830 in a rash and negligent manner and dashed against the injured and caused the



accident and in the said accident, the injured sustained grievous injuries.

4. The claimant filed an application in M.C.O.P.No.262 of 2010, on the file of the the Motor Accident Claims Tribunal, Pudukottai (Sub Court, Pudukottai), seeking compensation.

5. Before the Tribunal, the claimant examined two witnesses as P.Ws.1 and 2 and marked Seven documents as Ex.P.1 to Ex.P.7. On the side of the respondents, two witnesses were examined as R.Ws.1 and 2 and one document was marked as Ex.R1. Besides, Ex.C1 has also been marked before the Court below.

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 riding of the two wheeler, belonging to the first respondent and insured with the second respondent and therefore, held that the first and second respondents are jointly and severally liable to pay the compensation of Rs.29,000/-.

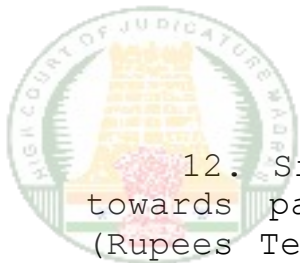
7. Against which, the appellant/claimant filed this present appeal seeking enhancement of compensation.

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.P7 assessing the permanent disability at 20% and awarded compensation of Rs.20,000/- 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, but the Tribunal had awarded only a sum of Rs.20,000/- for disability of 20%.

9. Considering the above submission, this Court fixes a sum of Rs.3,000/- (Rupees Three Thousand Only) for 1% disability and awards a rounded of amount of Rs.60,000/- (Rupees Sixty Thousand Only), towards permanent disability.

10. Further, the sum of Rs.2,000/- (Rupees Two 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.5,000/-** (Rupees Five Thousand only).

11. Further, the sum of Rs.2,000/- (Rupees Two Thousand only) awarded by the Tribunal towards transportation, is on the lower side and therefore, the same is enhanced to a sum of **Rs.5,000/-** (Rupees Five Thousand only).



12. Similarly, the Tribunal has not awarded any compensation towards pain and sufferings. Therefore, a sum of **Rs.10,000/-** (Rupees Ten Thousand only) is awarded by this Court and the other heads are confirmed.

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13. 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 (20%)             | 20,000                          | 60,000                            | enhanced                               |
| 2.   | For pain and sufferings                    |                                 | 10,000                            | awarded                                |
| 3.   | For Extra Nourishment                      | 2,000                           | 5,000                             | enhanced                               |
| 4.   | For Transportation                         | 2,000                           | 5,000                             | Enhanced                               |
| 5.   | For medical expenses                       | 2,000                           | 2,000                             | confirmed                              |
| 6.   | For loss of income during treatment period | 3,000                           | 3,000                             | confirmed                              |
|      | Total                                      | Rs.29,000                       | Rs.85,000                         | By enhancing a sum of Rs.56,000/-      |

13. In the result,

(i) This Civil Miscellaneous Appeal is partly allowed, enhancing the award of the Tribunal from Rs.29,000/- (Rupees Twenty Nine Thousand only) to a sum of **Rs.85,000/-** (Rupees Eighty 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.85,000/-** (Rupees Eighty 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(CS-I)

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/True Copy/

Sub Assistant Registrar

To,

- 1.The Subordinate Judge,  
Subordinate Court,  
Motor Accident Claims Tribunal,  
Pudukottai.
2. The Record Keeper,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.

+1cc to Mr.P.Ganapathi Subramanian, Advocate Sr.No.77969

+1cc to Mr.D.Sivaraman, Advocate Sr.No.76793

PM

VB/KK/SAR3/25/10/2017/4P/5C

**C.M.A (MD) No.1548 of 2013**

**06.09.2017**