



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 28.07.2017
CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WEB COPY

C.M.A (MD) No.1667 of 2013

S.Veerapathiran

... Appellant/Petitioner-Claimant

Vs.

1. R.Vijayaraja
2. The Branch Manager,
Reliance General Insurance Company Ltd.,
D.No.6, Reliance Tower,
Gowthas Road, Nungambakkam,
Chennai.

... Respondents/ Respondents

PRAYER:- Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Order and decree dated 28.06.2013 made in M.C.O.P.No.70 of 2010 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate Court, Virudhunagar District at Srivilliputhur.

For Appellant	: Mr.M.Thirunavukkarasu
For R-1	: No appearance
For R-2	: Mrs.K.R.Shivashankari for Mr.S.Srinivasa Raghavan

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant/claimant against the award of the Motor Accident Claims Tribunal/Chief Judicial Magistrate Court, Virudhunagar District passed in M.C.O.P.No.70 of 2010, dated 28.06.2013.

2. It is a case of injury sustained in the accident, which took place on 11.08.2009 at 5.30 p.m., at Koomapati-Vatrap main road.

3. It is the case of the injured claimant before the Tribunal that when he was travelling in an auto bearing Registration No.TN 67 AZ 4826 towards Vatrap, the driver of the auto drove the vehicle in a rash and negligent manner and due to that, the auto was capsized and in that accident, the injured/claimant sustained multiple grievous injuries all over the body.

4. The claimant filed an application in M.C.O.P.No.70 of 2010 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate Court, Virudhunagar District, seeking compensation for the injuries sustained by him.

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

5.Before the Tribunal, the appellant/claimant examined two



witnesses as P.Ws.1 and 2 and marked seventeen documents as Ex.P.1 to Ex.P.17. On the side of the second respondent/Insurance Company, one witness was examined as R.W.1 and two documents were marked as Ex.R1 and R2.

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 auto and therefore directed the second respondent/Insurance Company to pay a sum of Rs.8,30,669/-, 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 appellant sustained 100% disability and he is bedridden and therefore, the Tribunal ought not to have made 1/3rd deduction while calculating loss of income and the compensation awarded under the other heads are also on lower side and therefore, the compensation awarded by the Tribunal is to be enhanced.

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

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

11. This Court finds that a person with 100% disability is a living vegetable and the pain and suffering, which is undergone by his kith and kin is worse than the persons, who lost their beloved one. There cannot be personal expenses for him as he is taking care of by his family and therefore, 1/3rd deduction on account of his personal expenses need not be deducted in the present case and if the personal expenses is not deducted, the amount to be awarded for loss of income would be (Rs.4500 X 12 X 9) Rs.4,86,000/- and therefore, considering the above submission made by the learned counsel for the appellant, the amount awarded towards loss of income is enhanced to (Rs.4500 X 12 X 9) **Rs.4,86,000/-** (Rupees Four Lakhs Eighty Six Thousand only) .

12.Further, the sum of Rs.1,00,000/- (Rupees One Lakh only) awarded by the Tribunal towards loss of amenities, is on the lower side and therefore, by applying the judgement reported in **2016 (1) TANMAC 686(DB) (National Insurance Co. Ltd., Tuticorin vs. L.paulraj and two others)**, the same is enhanced to a sum of **Rs.1,50,000/-** (Rupees One Lakh and Fifty Thousand only).

13. Similarly, the Tribunal has not awarded any compensation towards Transportation. Therefore, a sum of **Rs.15,000/-** (Rupees

Fifteen Thousand only) is awarded by this Court.

14. Further, the Tribunal has not awarded any compensation towards extra nourishment. Therefore, a sum of **Rs.1,00,000/-** (Rupees One Lakh only) is awarded by this Court as till his lifetime, he should be given extra nourishment.

15. Further, the Tribunal has not awarded any compensation towards attendant charges. Therefore, a sum of **Rs.1,00,000/-** (Rupees One Lakh only) is awarded by this Court as attendant is required for his entire life.

16. Further, the sum of Rs.1,00,000/- (Rupees One Lakh only) awarded by the Tribunal towards future medical expenses, is on the lower side and therefore, the same is enhanced to a sum of **Rs.2,00,000/-** (Rupees Two Lakhs only) and the other heads are confirmed.

17. 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 loss of income	3,24,0000	4,86,000	enhanced
2.	For pain and sufferings	1,00,000	1,00,000	confirmed
3.	For medical expenses	2,06,669	2,06,669	confirmed
4.	For loss of amenities	1,00,000	1,50,000	enhanced
5.	For future medical expenses	1,00,000	2,00,000	enhanced
6.	For Transportat ion		15,000	awarded
7.	For Extra Nourishment		1,00,000	awarded
8.	For Attendant Charges		1,00,000	awarded
	Total	Rs.8,30,669	Rs.13,57,669	By enhancing a sum of Rs.5,27,000/-

18. In the result,

(i) This Civil Miscellaneous Appeal is partly allowed, enhancing the award of the Tribunal from Rs.8,30,669/- (Rupees Eight Lakhs Thirty Thousand Six Hundred and Sixty Nine only) to a sum of Rs.13,57,669/- (Rupees Thirteen Lakhs Fifty Seven Thousand Six Hundred and Sixty Nine 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.13,57,669/- (Rupees Thirteen Lakhs Fifty Seven Thousand Six Hundred and Sixty Nine only) 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. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Virudhunagar District at Srivilliputhur.

Copy To:-

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

+ 1 CC TO Mr.M.THIRUNAVUKARASU, ADVOCATE IN SR No. 68609
+ 1 CC TO Mr.S.SRINIVASA RAGHAVAN, ADVOCATE IN SR No. 68772

PM

TE/KP/SAR-III : 30/08/2017 : 4P/5C

C.M.A(MD)No.1667 of 2013
28.07.2017