



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.10.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A. (MD) No.991 of 2014

and

C.M.P (MD) No.8993 of 2017

Sivasubramanian

... Appellant/Petitioner

Vs.

1.M/s.R.P.G.Transports,
No.169, 7th Street,
Perumalpuram,
Palayamkottai,
Tirunelveli-627 007.

2.The Oriental Insurance Company Ltd.,
D.No.158 P, New Road Kovilpatti,
Tuticorin-628 501.

... Respondents/Respondents

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to call for the records relating to the Judgment and decree, dated 27.07.2013 in M.C.O.P.No.930 of 2012, on the file of the Motor Accident Claim Tribunal Judge (II Additional District Judge), Tirunelveli and set aside the same and consequently, enhance the compensation.

For Appellant	: Mr.V.Sasikumar
For R1	: No appearance
For R2	: Mr.K.Bhaskaran

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JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant-claimant against the award, dated 27.07.2013, made in M.C.O.P.No.930 of 2012, passed by the Motor Accident Claims Tribunal (II Additional District Judge), Tirunelveli.

2.The appellant/claimant filed a claim petition in M.C.O.P.No.930 of 2012, before the Motor Accident Claims Tribunal (II Additional District Judge), Tirunelveli, claiming a sum of Rs.25,00,000/- as compensation, for the injuries sustained by him in



the accident that occurred on 12.03.2012.

3.The Tribunal, considering the pleadings, oral and documentary evidence, awarded a total sum of Rs.4,62,000/- as compensation.

4.Not being satisfied with the quantum of compensation, the appellant has filed the present Civil Miscellaneous Appeal.

5.The first respondent remained ex-parte before the Tribunal.

6.I have heard the learned counsel appearing for the appellant and the second respondent and perused all the materials available on record.

7.From the materials on record, it is seen that the appellant has sustained grievous multiple injuries and has taken treatment in different hospitals for 4 months. From the documents with regard to medical treatment taken by him, it is seen that both the testicles have been removed. He has become total impotent and cannot have normal marital life. The appellant examined two doctors viz., P.W.1 and P.W.3 and filed documents to show that he suffered 85% of partial permanent disability.

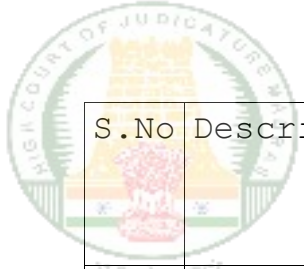
8.The Tribunal considered the documents filed by the appellant and evidence of P.W.1 and P.W.3 held that the appellant suffered 85% of disability. The Tribunal considering the injuries sustained by the appellant in the left hand, held that permanent disability of the appellant is 50%. The reasoning of the Tribunal for reducing the percentage of disability from 85% to 50% is erroneous. The appellant is entitled to compensation for 85% of disability. The appellant has contended that he was doing centring work and was earning Rs.12,000/-. He has not filed any document to substantiate the said contention. The Tribunal fixed the notional income of the appellant at Rs.4,000/-. The said amount is very meagre. Therefore, the notional income of the appellant is fixed at Rs.6,000/- and 1/3rd is deducted towards personal expenses of the injured. The amounts awarded by the Tribunal towards permanent disability is modified as follows:-

$$4,000 \times 12 \times 18 \times 85/100 = 7,34,400/-$$

9.The amounts awarded by the Tribunal under different heads are too meagre. The Tribunal has not awarded any amount towards attendant charges and loss of marital life. Considering the functional disability, a sum of Rs.2,00,000/- is granted towards loss of marital life and Rs.25,000/- is granted towards attendant charges.

10. The rate of interest awarded by the Tribunal at 8% per annum is confirmed.

11. 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	4,32,000	7,34,400	enhanced
2.	For Pain and suffering	20,000	50,000	enhanced
3.	For Transportation	5,000	25,000	enhanced
4.	For extra nourishment	5,000	5,000	confirmed
5.	For attendant charges	-	25,000	awarded
6.	For loss of marital life	-	2,00,000	awarded
	Total	Rs.4,62,000	Rs.10,39,400	By enhancing a sum of Rs.5,77,400/-

12. In the result,

(i) This Civil Miscellaneous Appeal is allowed, enhancing the award of the Tribunal from Rs.4,62,000/- (Rupees Four Lakhs and Sixty Two Thousand only) to a sum of **Rs.10,39,400/-** (Rupees Ten Lakhs Thirty Nine Thousand and Four Hundred only) along with interest at the rate of 8% 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 award amount, less the amount already deposited, if any, along with accrued interest and costs to the credit of M.C.O.P.No.930 of 2012, on the file of the Motor Accident Claims Tribunal, (II Additional District Judge), Tirunelveli, within a period of **eight weeks** from the date of receipt of copy of this judgment;

(iii) The appellant-claimant is directed to pay the additional Court Fees, if any, within a period of **two weeks** from the date of receipt of a copy of this judgment;

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

(iv) On such deposit being made, the appellant/claimant is entitled to withdraw the award amount, less the amount already



withdrawn, if any, with interest by making necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD I)

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Sub Assistant Registrar(CS-I)

To

The Motor Accident Claim Tribunal,
(II Additional District Judge),
Tirunelveli.

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

- 1 CC TO Mr.V.SASI KUMAR , ADVOCATE IN SR No.89239.
- 1 CC TO Mr.K.BHASKARAN , ADVOCATE IN SR No.89039.
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- DS BK SAR1 05 02 2019 4P 6C

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