

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 22.06.2018

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU**C.M.A(MD) .No.1926 of 2013**

Niroja .. Appellant / Claimant

Vs.

1. A.Sekar

2. United India Insurance Company Ltd.,
Rep. by its Branch Manager,
No.5/1, Alagu Bagavathi Complex,
Kailasapuram Middle Street,
Tirunelveli. ... Respondents / Respondents

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, against the award, dated 01.04.2013, made in M.C.O.P.No.674 of 2012 by the Motor Accident Claims Tribunal / III-Additional District and Sessions Judge, Tirunelveli.

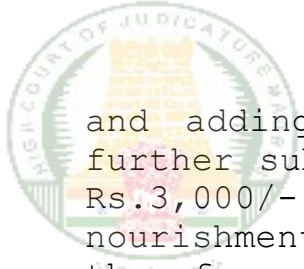
For appellant : Mr.T.Selvakumaran

For 2nd respondent : Mr.A.Ilango**JUDGMENT**

Heard the learned counsel appearing for both sides and perused the records carefully.

2. It is a case of injury. The manner of the accident is not in dispute. The appellant / claimant has filed this appeal seeking to enhance the compensation awarded by the Tribunal.

3. The learned counsel appearing for the appellant / claimant submitted that at the time of the accident, the appellant was doing B.Sc. 2nd year course. The appellant has sustained multiple fractures and injuries in the accident and the doctor has assessed permanent disability as 55%. The Tribunal, without adopting the multiplier method for arriving at the loss of income, has erroneously awarded a sum of Rs.1 lakh in lump sum towards the head of permanent disability, loss of earning capacity and mental agony. Therefore, he prayed this Court to adopt multiplier method by taking the notional income of the deceased as Rs.6,500/- p.m.



and adding 40% of the income as future prospects. He would further submit that the Tribunal has awarded only a meagre sum of Rs.3,000/- towards the head of transportation, Rs.3,000/- towards nourishment and Rs.20,000/- towards pain and sufferings and therefore, the award passed under the said heads may be enhanced. He would further submit that the Tribunal has failed to award any amount towards attendant charges and therefore, some amount may be awarded under the said head. Thus, he prayed to enhance the award amount.

4. The learned counsel for the second respondent would submit that in this appeal, the appellant / claimant has restricted his claim to Rs.2 lakhs and has paid Court fee for the said amount and therefore, if the appellant / claimant restricted his claim to Rs.2 lakhs, in addition to the amount awarded by the Tribunal, he has no objection in enhancing the award amount.

5. At this juncture, the learned counsel appearing for the appellant / claimant would submit that the appellant / claimant would be satisfied if Rs.2 lakhs enhanced, in addition to the amount awarded by the Tribunal.

6. In view of the above, the award is enhanced from 2,79,190/- to Rs.4,79,190/-. So far as the interest is concerned, the rate of interest i.e., 8 % p.a. fixed by the Tribunal is confirmed. The respondents are directed to deposit the entire award amount ie., Rs.4,79,190/- jointly or severally, less the amount already deposited, with accrued interest and costs, within a period of eight weeks from the date of receipt of a copy of this judgment and on such deposit being made, the appellant / claimant is permitted to withdraw the deposited amount with accrued interest and costs without filing any formal petition before the Tribunal. The appellant is directed to pay the Court fee, if any to be paid, for the enhanced amount, within a period of four weeks from the date of receipt of a copy of this judgment.

7. This Civil Miscellaneous Appeal is accordingly allowed. No costs.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The III-Additional District and Sessions Judge,
 District Claims Tribunal,
 Tirunelveli.



2. The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+ 1 cc TO Mr.T.Selvakumaran , Advocate in SR No. 69643
+ 1 cc TO Mr.A.Ilango , Advocate in SR No. 69619

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AE/SKN RSK/SAR1/18.07.2018/3P/6C

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