



produced on both sides, awarded a sum of Rs.9,46,000/- against the claim made by the claimant at Rs.40 lakhs. The sum awarded by the Tribunal is as follows:

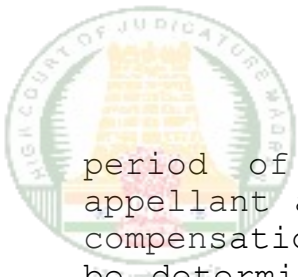
Sl.No.	Name of the Head	Amount awarded by the Tribunal
1	For partial permanent disability at 55% of disability	Rs.1,10,000/-
2	Towards Medical Bills	Rs.7,45,743/-
3	For pain and suffering	Rs.50,000/-
4	Loss of earning for the treatment period	Rs.10,000/-
5	Towards extra nourishment	Rs.20,000/-
6	Towards transportation	Rs.20,000/-
	Total	Rs.9,55,743/-

Totalling to a sum of Rs.9,55,743/- but wrongly mentioned as Rs.9,45,743 by the Tribunal, rounded to Rs.9,46,000/-.

5.The appellant is very much aggrieved against the award and has contended that the appellant has sustained severe injuries and taken treatment for a very long period from 7.6.2012 to 18.7.2012 as inpatient and from 24.8.2012 to 28.8.2012 as out patient and further he is only aged about 24 years at the time of accident and earning a sum of Rs.6,000/-p.m and after the accident, he is not able to stand for a very long time and working in the same capacity as he was working before the accident. The sum awarded for pain and suffering is also very meagre, when the injuries sustained by him and the treatment given to him and in spite of treatment, he has not yet completely cured, are not considered by the Tribunal. Hence the appellant filed this appeal to enhance the compensation as claimed by him.

6.Heard the submissions of the learned counsel appearing for the appellant and the learned counsel appearing for the second respondent and perused the materials placed before this Court.

7.The learned counsel for the appellant contended that the appellant sustained grievous injuries and had four fractures on his body and he was undergoing treatment as inpatient for a very long period and the disability sustained by him is assessed at 55%. P.W.3 Doctor was also examined before the Tribunal to prove the fact that partial permanent disability sustained by the appellant is at 55% and there are four grievous injuries. Even the history treatment, medical prescriptions, discharge summary will prove the same that the appellant had sustained disability at 55% as determined by the Tribunal and granted Rs.2,000/- per percentage of disability, is very meagre. The Tribunal has not considered the



period of treatment undergone by him and occupation of the appellant as driver. Hence the Petitioner sought for enhancement of compensation for the disability suffered by him and the same has to be determined by adopting multiplier method. The sum award towards pain and suffering, extra nourishment and other heads are also not properly considered by the Tribunal.

8. On the other hand, the learned counsel appearing for the second respondent contended that the appellant is still in a position to continue his profession as before and the treatment given to him was very much assessed and only after getting completely cured, he was discharged from the hospital. However, the Tribunal awarded a sum of Rs.1,10,000/- towards partial permanent disability for 55% disability at Rs.2,000/- per percentage of disability, which seems to be very reasonable and the sum awarded towards medical expenses at Rs.7,45,743/- is also properly considered by the Tribunal by taking into account all the medical bills as such. Hence there is no grievance for the appellant against the said heads.

9. On the side of the second respondent/Insurance Company, relied on a decision reported in **2012(1) TN MAC 117(DB) in the case of Dr. Balaji .vs. V.K. Sunil Kumar**, wherein, paragraph 12 and 12 reads as follows:

'12. While considering the compensation the Tribunal considered the disability at 55% and has granted a sum of Rs.55,000/- for disability. On the basis of medical bills, the Tribunal has granted a sum of Rs.9,07,000/- towards medical expenses. A sum of Rs.75,000/- was granted for pain and suffering, Rs.25,000/- towards transport and Rs.50,000/- was for loss of amenities. A total sum of Rs.11,22,000/- was granted

24. As far as the compensation is concerned, the Tribunal has found that the appellant has suffered 55% of disability. But has granted a sum of Rs.55,000/- The Appellant had stated that he was working as House Surgeon and was earning a sum of Rs.10,000/- and there is loss of earning from 15.8.2003 to 10.2.2004. This was disbelieved by the Tribunal since the Tribunal has found that the appellant was a House Surgeon. It is common knowledge that during the house surgeon period, a student can work under a trained Doctor privately as his Assistant. Therefore, we are of the considered view that the Appellant would have earned Rs.5000/-p.m. And there is loss of pay for five months and therefore, he is entitled for Rs.25,000/- as loss of income. For 55% disability, he is entitled for Rs.1,10,000/-. The amount granted for pain and suffering at Rs.75,000/- is increased to Rs.1,00,000/-. The Tribunal has awarded Rs.25,000/-



towards transport another Rs.10,000/- has been awarded for nourishment. The amount spent for treatment is also confirmed. Therefore the compensation is recalculated as follows:

Disability	----	Rs.1,10,000/-
Medical Expenses	----	Rs.10,00,000/-
Pain and Suffering	----	Rs. 1,00,000/-
Transport	----	Rs.25,000/-
Nourishment	----	Rs.10,000/-
Loss of Amenities	----	Rs.50,000/-
Loss of Income during the treatment period	----	Rs.25,000/-
Total	----	Rs.13,20,000/-

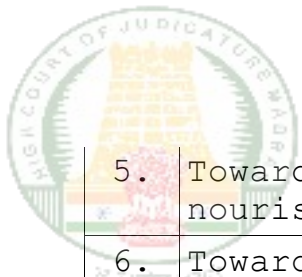
The Tribunal has awarded the rate of interest at 7.5% interest which is confirmed.

In the above case, the Division Bench has granted Rs.2,000/- per percentage of disability and hence the same is followed by this Court.

10.On hearing both sides and upon perusing the documents, it is seen that the claimant was under treatment as inpatient and out patient for a very long period and the nature of injuries sustained is also grievous in nature. Moreover, the history of treatment and discharge summary reveals the said fact. Hence the sum awarded under the some of the heads are necessary to be modified. However considering the nature of injuries and period of treatment, the Tribunal has not awarded any amount towards attendant charges and this Court awarded a sum of Rs.25,000/- under the said head. However considering the injuries sustained by the appellant and surgeries undergone by him, the sum of Rs.50,000/- awarded towards pain and suffering is meagre and the same is enhanced to Rs.75,000/-.The Tribunal has awarded a sum of Rs.20,000/- towards extra nourishment and the same is enhanced to Rs.50,000/-. The awards under other heads remains unaltered.

11.Accordingly, the claimant is entitled for compensation as follows:

S. No.	Description	Amount awarded by		Award confirmed / enhanced / granted
		Tribunal	this Court	
1.	For partial permanent disability at 55%	Rs.1,10,000/-	Rs.1,10,000/-	Confirmed
2.	Towards medical bills	Rs.7,45,743/-	Rs.7,45,743	confirmed
3.	For pain and suffering	Rs.50,000/-	Rs.75,000/-	Enhanced
4.	Loss of earning during treatment period	10,000	10,000	Confirmed



5.	Towards extra nourishment	Rs.20,000/-	Rs.50,000/-	Enhanced
6.	Towards transportation	20,000	20,000/-	Confirmed
7.	Towards attendant charges		25,000/-	Added
Total		9,55,743/-	10,35,743/-	80,000/-

Rounded off to Rs.10,35,000/- with interest at 8% p.a., as awarded by the Tribunal, from the date of claim petition till the date of realization.

12. In the result, the Civil Miscellaneous Appeal is partly allowed, enhancing the compensation from Rs.9,55,743/- to Rs.10,35,000/-. The enhanced award amount shall carry interest at the rate of 8% p.a., from the date of claim petition till the date of realization, as awarded by the Tribunal. The second respondent/Insurance Company is directed to deposit the enhanced award amount with accrued interest and costs, less the award amount already deposited, if any. On such deposit, the appellant/claimant is permitted to withdraw the entire award amount with accrued interest and costs, by filing necessary application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar (CS)

To

The Motor Accidents Claims Tribunal,
II Additional District Judge,
Tirunelveli.

Copy to:

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

+1cc to Mr.S.NATARAJAN, Advocate, SR.No. 55734

+1cc to Mr.V.SASI KUMAR, Advocate, SR.No.56066

C.M.A. (MD) .No.955 of 2014

and

C.M.P. (MD) .No.8994 of 2017

21.3.2019

VSN

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

KK/SAR/29.04.2019/ 5P- 6C