



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2019

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A. (MD) .Nos.481 and 482 of 2018

C.M.A. (MD) .No.481 of 2018

Selvamani ... Appellant / Petitioner

Vs.

1.Ravindran

2.Universal Sompo General Insurance Company Limited
through its Branch Manager,
Unit 401, 4th Floor Sengam Complex,
No.127, Andheri Kurla Road, Andheri (East),
Mumbai.

... Respondents / Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the award and decree made in M.C.O.P.No.674 of 2014 on the file of the Motor Accident Claims Tribunal (Special Sub Court), Tirunelveli, dated 29.02.2016.

For Appellant : Mr.T.Selvakumaran

For R2 : Mr.S.Srinivasaraghavan

C.M.A. (MD) .No.482 of 2018

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Vs.

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through its Branch Manager,
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Andheri (East),
Mumbai.

... Respondents / Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the award and decree made in M.C.O.P.No.675 of 2014 on the file of the Motor Accident Claims Tribunal (Special Sub Court), Tirunelveli, dated 29.02.2016.



For Appellant : Mr.T.Selvakumaran

For R2 : Mr.S.Srinivasaraghavan

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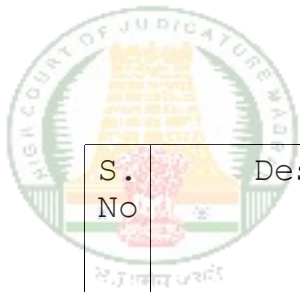
COMMON JUDGMENT

These Civil Miscellaneous Appeals have been filed by the claimants challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal (Special Sub Court), Tirunelveli, in M.C.O.P.Nos.674 and 675 of 2014, dated 29.02.2016.

2. In M.C.O.P.Nos.674 of 2014, the learned counsel appearing for the appellant/claimant submitted that the award passed by the Tribunal is just and fair. But however, as held by the Hon'ble Apex Court, in the case of **National Insurance Company Vs. Pranay Sethi and others** reported in **2017(2) TN MAC 609 (SC)**, no future prospects was added in awarding the loss of income for partial permanent disability. In the present case, the age of the injured was 49 years. For the age group of 49 years, 25% is required to be added. The Tribunal has fixed a sum of Rs.6,500/- for the accident of the year 2014, following the judgment of the Hon'ble Apex Court. In the case of **Syed Sadiq v. Divisional Manager, United India Insurance Co. Ltd.**, reported in **2014 (1) TNMAC 459 (SC)**, the Hon'ble Apex Court, without any income proof, fixed a sum of Rs.6,500/- as notional income of the deceased and the appellant is not challenging the fixation of the income and challenging the non-inclusion of the future prospects on the part of the Tribunal only.

3. The learned counsel appearing for the second respondent/Insurance Company has also accepted the principles laid down by the Hon'ble Apex Court in the case of **Syed Sadiq**.

4. In view of the submissions made by the learned counsel for the appellants/claimants as well as the learned counsel for the second respondent/Insurance Company and in view of the principles laid down by the Hon'ble Apex Court in **Syed Sadiq case**, this Court is of the view that the Tribunal would have added 25% future prospects. In the present case, the Tribunal has awarded a sum of Rs.8,11,200/- for partial permanent disability and by adding a sum of Rs.2,02,800/- (25%) towards partial permanent disability, the partial permanent disability would be Rs.10,14,000 /- (Rs.8,11,200/- + Rs.2,02,800/-) and the amount awarded by the Tribunal under various other heads is just and fair and the same is confirmed. In such circumstances, the compensation awarded by the Tribunal stands revised from Rs.19,33,700/- to Rs.21,36,500/- in the manner stated below:



S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For partial permanent disability	8,11,200	10,14,000	enhanced
2.	For loss of income during treatment	19,500	19,500	confirmed
3.	For transportation, nutrition, attendant charges	50,000	50,000	confirmed
4.	For pain and suffering	1,00,000	1,00,000	confirmed
5.	For mental agony	1,00,000	1,00,000	confirmed
6.	For medical expenses	7,23,000	7,23,000	confirmed
7.	For fixation of artificial leg	1,30,000	1,30,000	confirmed
	Total	Rs.19,33,700/-	21,36,500/-	By increasing a sum of Rs.2,02,800/-

5. In M.C.O.P.No.675 of 2014, the Tribunal has awarded a sum of Rs.1,50,600/- as compensation to the appellant/claimant in the manner stated below:

S. No	Description	Amount awarded by the Tribunal (Rs)
1.	For partial permanent disability	63,000 (3000 x 21)
2.	For loss of income during treatment	8,000 (4,000 x 2)
3.	For transportation, nutrition, attendant charges	7,000
4.	For pain and suffering	10,000
5.	For loss of amenities	10,000
6.	For medical expenses	52,600
	Total	1,50,600

6. The learned counsel appearing for the appellant/claimant submitted that the compensation awarded by the Tribunal for partial permanent disability is very low and hence, the same may be enhanced. However, the learned counsel appearing for the second respondent/Insurance Company submitted that the Tribunal has fixed a



sum of Rs.3,000/- for every percentage of disability and awarded a sum of Rs.62,000/- as compensation towards partial permanent disability.

7. Considering the nature of the injuries sustained by the appellant/claimant, this Court is of the view that the amount awarded by the Tribunal towards partial permanent disability is just and fair and there is no interference is required by this Court. Accordingly, the Civil Miscellaneous Appeal No.482 of 2018 is dismissed and the award passed by the Motor Accident Claims Tribunal (Special Sub Court), Tirunelveli, in M.C.O.P.No.675 of 2014, dated 29.02.2016 is confirmed and in view of the above modifications, the Civil Miscellaneous Appeal No.481 of 2018 is partly allowed.

8. The second respondent/Insurance Company is directed to deposit the entire award amount along with interest at the rate of 7.5% per annum from the date of accident till the date of deposit, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the same to the appellants/claimants' account directly by way of RTGS/NEFT system, after getting their Account Details, within a period of three weeks thereafter. In case, if the award amount is already deposited, the Tribunal is directed to transfer the same to the appellants/claimants' account directly by way of RTGS/NEFT system, after getting their Account Details, within a period of three weeks from the date of receipt of a copy of the judgment. No costs.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

To

The Special Subordinate Judge,
Motor Accident Claims Tribunal, Tirunelveli.

Copy to:

The Section Officer, (2 Copies)
V.R.Section,
Madurai Bench of Madra High Court, Madurai.

+3 CC to M/s.S.SRINIVASA RAGHAVAN, Advocate SR-99145, 19146 & 98762
+2 CC to M/s.T.SELVAKUMARAN, Advocate (SR-99331 & 99332)

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