



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**

CMA(MD).No. 1131 of 2017

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Nandakumar : Appellant / Petitioner

Vs.

1.Suresh

2.The Branch Manager,  
National Insurance Company Limited,  
No.1754/56, Manojiappa Street,  
Thanjavur District.

:Respondents / Respondents

**Prayer:** Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act against the award and Decree passed in MCOP.No. 741 of 2016 dated 02.12.2016 on the file of Motor Accidents Claims Tribunal / Special District Court, Thanjavur.

For Appellant : Mr. G. Karnan  
For R1 : No appearance  
For R2 : Mr. A. Elango

#### JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant / Insurance Company against the Award dated 02.12.2016 made in MCOP.No. 741 of 2016 on the file of Motor Accidents Claims Tribunal / Special District Court, Thanjavur.

2. On 07.12.2015, while the appellant was travelling in the Honda Mobilia Car bearing Reg.No. TN 49 BY 2198 from Thanjavur - Valangaiman, on Nanjikkottai by-pass bridge near Sakthi Hotel, the 1<sup>st</sup> respondent's Zylo Car bearing Regn.No.TN 50U 2371, which was driven by its driver in a rash and negligent manner, dashed against the appellant's vehicle. Due to the accident, the claimant sustained grievous injuries with 66% partial permanent disability. Therefore, he filed claim petition claiming a sum of Rs.60,00,000/- as compensation.

3. The Tribunal, considering the pleadings, and the oral and documentary evidence let in by both sides, came to the conclusion that the accident took place only due to the rash and negligent driving by the driver of the first respondent's vehicle and awarded a sum of Rs.4,65,829/- as compensation.



4. Not being satisfied with the quantum of compensation awarded by the Tribunal, the appellant / claimant has filed the present appeal for enhancement of compensation on the ground that the amount awarded by the Tribunal is too low in all heads.

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5. The Tribunal has awarded the compensation to the appellant / claimant in the manner stated below:

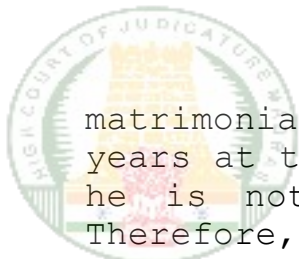
| S. No | Heads                                                                              | Amount Rs.  |
|-------|------------------------------------------------------------------------------------|-------------|
| 1.    | Toward Medical Treatment and disabilities                                          | 50,000.00   |
| 2.    | Towards medical expenses as per Ex.P6                                              | 2,11,829.00 |
| 3.    | Towards Transportation Charges during the period of treatment                      | 20,000.00   |
| 4.    | Towards special diet and nutrition as advised by the Doctor                        | 20,000.00   |
| 5.    | Towards attendant charges during treatment period and three months after treatment | 25,000.00   |
| 6     | Towards pain and suffering due to severe head injury and his visual disability     | 40,000.00   |
| 7     | Towards loss of amenities                                                          | 20,000.00   |
| 8.    | Towards loss of expectation of life                                                | 40,000.00   |
| 9.    | Towards loss of income for 6 months                                                | 39,000.00   |
|       | Total compensation amount                                                          | 4,65,829.00 |

6. The learned counsel appearing for the appellant / claimant contended that the amount awarded by the Tribunal in all the heads is too low. He would further contend that no amount was awarded towards 66% of partial permanent disability.

7. At this juncture, the learned counsel appearing for the 2<sup>nd</sup> respondent / Insurance Company fairly stated that Rs.3,000/- per percentage of disability may be awarded as compensation, for which, the learned counsel appearing for the appellant / claimant also agreed for the same. In view of the said submission made by the learned counsel appearing on either side, a sum of Rs.3,000/- per percentage of disability is hereby fixed and a sum Rs.1,98,000/- (Rs.3,000/- x 66) is awarded towards 66% of partial permanent disability.

8. The learned counsel appearing for the appellant / claimant would submit that no amount was awarded towards loss of

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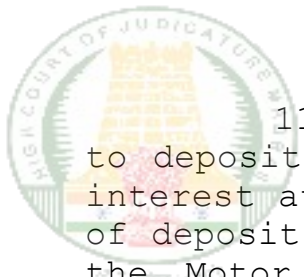
matrimonial life. He further submitted that the injured was 31 years at the time of accident and even now at the age of 35 years, he is not able to get marry due to loss in one eye sight. Therefore, he contended that a sum of Rs. 2,00,000/- may be awarded towards loss of matrimonial life.

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9. The learned counsel appearing for the 2<sup>nd</sup> respondent / Insurance Company fairly submitted that due to loss on the eye sight the claimant would suffer. But, he strongly opposed in awarding a sum of Rs.2,00,000/- as compensation towards loss of matrimonial life and he would further submit that a sum of Rs.1,00,000/- may be awarded towards loss of matrimonial life. Taking into consideration of the fact that the claimant lost his eye sight in one eye and that he lost his matrimonial life, a sum of Rs.1,00,000/- is hereby awarded towards loss of matrimonial life. In all other aspects, the amount awarded by the Tribunal is hereby confirmed.

10. Accordingly, the amount awarded by the Tribunal is enhanced from Rs.4,65,829/- to Rs.7,63,829/- together with interest at 7.5% per annum from the date of petition till date of deposit as compensation in the manner stated below:

| S.No. | Heads                                                                              | Amount<br>Rs. |
|-------|------------------------------------------------------------------------------------|---------------|
| 1.    | Toward Medical Treatment and disabilities                                          | 50,000.00     |
| 2.    | Towards medical expenses as per Ex.P6                                              | 2,11,829.00   |
| 3.    | Towards Transportation Charges during the period of treatment                      | 20,000.00     |
| 4.    | Towards special diet and nutrition as advised by the Doctor                        | 20,000.00     |
| 5.    | Towards attendant charges during treatment period and three months after treatment | 25,000.00     |
| 6     | Towards pain and suffering due to severe head injury and his visual disability     | 40,000.00     |
| 7     | Towards loss of amenities                                                          | 20,000.00     |
| 8.    | Towards loss of expectation of life                                                | 40,000.00     |
| 9.    | Towards loss of income for 6 months                                                | 39,000.00     |
| 10.   | Loss of matrimonial life                                                           | 1,00,000.00   |
| 11.   | Partial permanent disability                                                       | 1,98,000.00   |
|       | Total compensation amount                                                          | 7,63,829.00   |



11. The 2<sup>nd</sup> respondent / Insurance Company is directed to deposit the entire award amount of Rs.7,63,829/- together with interest at 7.5% per annum from the date of petition till the date of deposit to the credit of MCOP.No. 741 of 2016 on the file of the Motor Accidents Claims Tribunal / Special District Court, Thanjavur, after deducting the amount already deposited if any, within a period of eight weeks from the date of receipt of copy this order. On such deposit, The Tribunal is directed to transfer the said amount to the appellant / claimant directly to the Bank account through RTGS within a period of two weeks, thereafter.

12. In fine, this Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-

Assistant Registrar (CS-III)

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/ /2020

Sub Assistant Registrar(CS)

trp

To

The Special District Judge,  
Motor Accidents Claims Tribunal  
Thanjavur.

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+1 CC to MR.A.ILANGO, Advocate ( SR-98877[F] dated 18/11/2019 )

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15.11.2019

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