



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	30.07.2020
Pronounced On	05.08.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.2557 of 2011

and

M.P.No.1 of 2011

(Through Video Conferencing)

The Divisional Manager,
M/s. New India Assurance Company Limited,
No.106, Big Street, Tiruvannamalai Town.

... Appellant/2nd Respondent

Vs.

1.Chandrasekaran ...Ist Respondent/Claimants

2.P.Murugesan ...IInd Respondent/Respondent I

3.M.Rajendran ...IIIrd Respondent/Respondent III

4.M/s.National Insurance Company Limited,

Opp. Lakshmi Theatre,

No.19, Officers Line,

Vellore - 1.

... IVth Respondents/Respondent IV

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree passed in M.C.O.P.No.375 of 2005 on 12.04.2011 on the file of the Learned Motor Accidents Claims Tribunal (Principal Subordinate Judge), at Thiruvannamalai District.

For Appellant : Mr.J.Chandran

For 1st respondent : Mr.B.Jawahar

For 2nd respondent : Mr.S.V.Karthikeyan

For 4th respondent : M/s.R.Sreevidya



J U D G M E N T

The Insurance Company is the appellant in this appeal. In this appeal, the appellant Insurance Company is aggrieved by the impugned Judgment and Decree dated 12.04.2011 passed by the Motor Accident Claims Tribunal, Tiruvanamali, (Principal Subordinate Court), Tiruvanamali District in M.C.O.P.No. 375 of 2005.

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.1,80,000/- as compensation to the 1st respondent/claimant together with interest at 7.5% from the date of the claim till the date of actual payment.

3. While awarding the aforesaid compensation, the Tribunal directed the owner of the insured vehicle and the appellant to deposit a sum of Rs.1,00,000/- in an interest-bearing account in anyone of the Nationalised Bank for a period of three years in the name of the 1st respondent/claimant while the balance amount to the credit of the above case in the Tribunal together with interest thereon to be withdrawn by the 1st respondent/claimant immediately on its deposit.

4. Tribunal has found that the driver of the insured lorry was guilty of negligent driving which resulted in the accident on 14.10.2004 at about 10:30 p.m, on Pondicherry - Bangalore Road Highway, near Central Agricultural Farm, Melsengam.

5. Since the insured lorry did not have its fitness certification and was covered by a valid policy, the Tribunal has directed the appellant Insurance Company to pay the aforesaid compensation to the 1st respondent/claimant with liberty to recover the same from the owner of the insured lorry bearing registration No.TAR 7366 of the 2nd respondent.

6. The peculiar facts of the case are that the 1st respondent/claimant was driving a milk van bearing registration No. TN.25-D-9866 and was behind the insured lorry. It was alleged and established that the driver of a speeding vehicle coming from the opposite direction failed to dim and dip the light and due to the blaze of the light, the driver of the insured lorry applied sudden brake to avert collision with it.

7. It was also established that the insured lorry's brake lights and the tail lamps were not working and therefore not glowing. Therefore, when driver of the insured lorry applied sudden brake, the 1st respondent/claimant who was on the wheels of milk van was unable to judge whether the insured lorry was in motion or had stopped. Thus, the 1st respondent/claimant rammed



the insured lorry from behind and sustained grievous injuries to his body due to the impact. The injuries sustained by the 1st respondent/claimant are detailed as below:-

- i. Right Hipbone dislocation
- ii. Left Hipbone multiple Fracture
- iii. Right Leg fracture below knee
- iv. Right Articular Cartilage of hip joint dislocation
- v. Restricted movement of Right hip Articular Cartilage
- vi. Restricted movement of Right knee Articular Cartilage

8. There is no dispute on the nature of injury suffered and the extent of disability of 1st respondent/claimant. In this appeal, the appellant Insurance Company has attempted to distance itself from the liability fastened on it on the ground that it was the 1st respondent/claimant driver of the milk van who was guilty of the negligence and thus caused the accident. This submission is based on the statement of complainant (the cleaner of the Van) in the Ex.P1 FIR dated 16.10.2004 notwithstanding the fact that the insured lorry did not have a fitness certificate on the date of accident.

9. It is stated that Ex.P1 FIR makes it clear that the driver of the insured lorry was not negligent while applying the brake as a vehicle from the opposite direction flashed high beam light and therefore to avoid accident/collision with the said vehicle, the driver of the insured lorry applied sudden brake.

10. It is further submitted that the Hon'ble Supreme Court in Nishan Singh and Others Vs. Oriental Insurance Co Ltd and Others, (2018) 6 SCC 765, has dealt with an almost similar situation in the light of Rule 23 of the Rules of the Road Regulations, 1989 observed as follows:-

12. The finding so recorded by the Tribunal has been affirmed by the High Court, by observing that the evidence was clearly indicative of the fact that the Maruti car was being driven in a rash and negligent manner, which was the cause for accident of this nature and resulting in death of one of the passengers in the Maruti car. The Maruti car was driven by none other than PW 2 Manjeet Singh. In his evidence, he has admitted that the subject truck was running ahead of the Maruti car for quite some time about one kilometre and at the time of accident, the distance between the truck and Maruti car was only 10-15 ft. He has also admitted that the law mandates maintaining sufficient distance between two vehicles running in the same direction. It is also not in dispute



WEB COPY

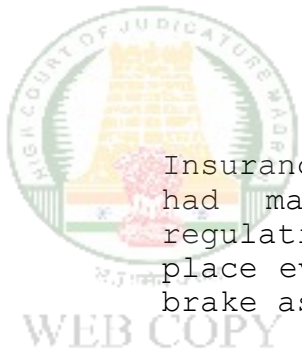
that the road on which the two vehicles were moving was only about 14 ft wide. It is unfathomable that on such a narrow road, the subject truck would move at a high speed as alleged. In any case, the Maruti car which was following the truck was expected to maintain a safe distance, as envisaged in Regulation 23 of the Rules of the Road Regulations, 1989, which reads thus:

"23. Distance from vehicles in front.—The driver of a motor vehicle moving behind another vehicle shall keep at a sufficient distance from that other vehicle to avoid collision if the vehicle in front should suddenly slow down or stop."

The expression "sufficient distance" has not been defined in the Regulations or elsewhere. The thumb rule of sufficient distance is at least a safe distance of two to three seconds gap in ideal conditions to avert collision and to allow the following driver time to respond. The distance of 10-15 ft between the truck and Maruti car was certainly not a safe distance for which the driver of the Maruti car must take the blame. It must necessarily follow that the finding on the issue under consideration ought to be against the claimants.

13. The Tribunal also noted that there was no evidence on record to indicate that the driver of the truck suddenly applied his brake in the middle of the road. Further, the finding on Issue 1 recorded by the Tribunal is that there was no evidence regarding exact place of occurrence of accident and having taken survey. Therefore, the issue under consideration was answered against the appellant claimants, namely, that the subject truck was not driven rashly and negligently by the truck driver nor had he brought the truck in the centre of the road at the right side or applied sudden brake as being the cause of the accident. Being a concurrent finding of fact and a possible view, needs no interference.

11. The learned counsel for the appellant Insurance Company further referred to Rule 17 of the Motor Vehicle Driving Regulations, 2017, as per which also a driver is expected to maintain a safe distance. The learned counsel for the appellant



Insurance Company submitted that if the 1st respondent/claimant had maintained sufficient distance as per the aforesaid regulation, it was impossible for the accident to have taken place even if the driver of the injured lorry had applied sudden brake as has been stated in Ex.P1 FIR.

12. The learned counsel for the appellant Insurance Company further submits that even a distance of 10-15 feet between two vehicles following each other has not been considered to be a safe distance by the Hon'ble Supreme Court and therefore submits that the 1st respondent/claimant was himself tortfeasor and therefore not entitled for any compensation.

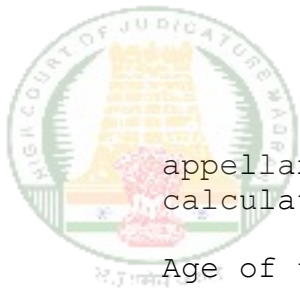
13. Defending the impugned Judgment and Decree passed by the Tribunal learned counsel for the 1st respondent/claimant stated that the above decision cannot be applied to the facts of the present case in the light of the fact that the accident in the present case had taken place in the night hours between 10.15 and 10.30 pm, whereas, the accident in the said case before the Hon'ble Supreme Court, took place in evening and not in the night.

14. He further submits that there, the Maruti van was trailing behind a truck in a 14 feet wide road and therefore there is no comparison between the facts of the present case and that of the case in which fell for consideration before the Hon'ble Supreme Court in the above case.

15. The learned counsel for the appellant Insurance Company further submits that in the said case before the Hon'ble Supreme Court there was no finding that the truck in the front had applied sudden brake, whereas, in the present case, there is no denial that the insured lorry had applied sudden brake to avert a collision with the vehicle coming from the opposite direction.

16. The learned counsel for the 1st respondent/claimant further submitted that a Division Bench of this court in Reliance General Insurance Company Limited Vs. Kaleeshwari and Others, [C.M.A.Nos.1635& 1728 of 2015] vide its order dated 15.07.2019, distinguished the above decision of the Hon'ble Supreme Court and held that the driver of the container lorry was guilty of negligence for having applied sudden brake.

17. The learned counsel for the 1st respondent/claimant further submitted that the compensation awarded by the Tribunal was very low. It is further submitted that considering 50% of permanent disability suffered by the 1st respondent/claimant, the compensation awarded is liable to be enhanced to Rs.5,12,000/- even though he had not filed any cross-objection or an independent appeal for enhancement. It is submitted that the



appellant was entitled for a higher compensation. Details of the calculation given are as follows:-

Age of the 1st respondent/claimant: 23 years
Occupation : Driver
Income : Rs.4,500/- claimed by the claimant instead of Rs.3,000/- fixed by the Tribunal

Permanent Disability :50 %
Multiplier :18 as per Sarla Verma (Smt) and Others Vs. Delhi Transport Corporation and Another, (2009) 6 SCC 12.

Calculation:-

Disability	: 4500 x 12 x 18 x 50/100=	Rs.4,86,000/-
Loss of Income for 8 months:	4500 x 8	= Rs. 36,000/-
Transport		= Rs. 5,000/-
Extra Nourishment		= Rs. 5,000/-
Attendar Charges		= Rs. 10,000/-

Total		= Rs.5,12,000/-

18. For enhancement of the compensation, the learned counsel for the 1st respondent/claimant drew my attention to the decision of a Division Bench of this court in New India Assurance Company Limited. Vs. R.Nagaraj and Others, 2018 SCC OnLine Mad 1356 : 2018 (2) TN MAC 40 DB, wherein it was held as follows:-

11. Though the Insurance Company has filed the appeal, the facts and circumstances enable this Court to enhance the compensation. Accordingly, award of the Tribunal (i.e.,) Rs. 20,93,500/- is enhanced to Rs. 45,00,000/- invoking Order 41 Rule 33 of CPC and Section 151 and Article 227 of Constitution of India. The provisions of the Motor Vehicles Act are beneficial in nature and what is required to be awarded is just and reasonable compensation. Therefore, even in the absence of appeal/cross-appeal by the claimant, this Court has got power and jurisdiction to enhance the compensation, which has been recognised by the Honourable Supreme court in Nagappa v. Gurdalay Singh reported in 2004 (2) TN MAC 398 (SC).

19. I have considered the arguments advanced by the respect



learned counsels for the appellant Insurance Company and the 1st respondent/claimant. Before considering the issue as to whether the 1st respondent/claimant is entitled for an enhancement of the compensation as per the decision of this Division Bench of this court in New India Assurance Company Limited. Vs. R.Nagara and Others, 2018 SCC OnLine Mad 1356 : 2018 (2) TN MAC 40 DB, the core issue to be answered in this case is whether the appellant Insurance Company is justified in taking a stand that the driver of the insured lorry was not at fault considering and not guilty of rash and negligent driving in view of the fact that the vehicle coming from the opposite direction flashed high beam light on the insured lorry and did not dip and dim the light forcing the driver of the insured lorry to apply sudden brake to avoid collision with it? And secondly, whether the appellant Insurance Company can take a stand to distance from the liability that it was the insured lorry which was hit from behind by the milk van driven by the 1st respondent/claimant and not vice-versa in the light of the decision of the Hon'ble supreme court in Nishan Singh and Others Vs. Oriental Insurance Co Ltd and Others, (2018) 6 SCC 765?

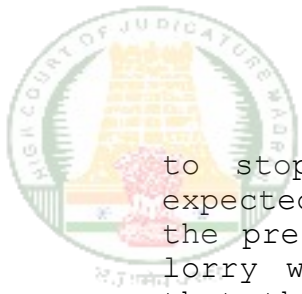
20. In my view, the decision of the Hon'ble Supreme Court in Nishan Singh's case (supra), cannot be applied straightaway to the facts of the present case particularly in the light of the fact that the insured lorry in the present case did not have its tail lamp and the brake lights working at the time of the accident.

21. Secondly, the fact remains that on a highway drivers are expected to not only follow the regulations but also road etiquette. Even if the vehicle coming from the opposite direction had flashed high beam the driver of the insured lorry ought to have dipped and dimmed his light to avoid the glare to get the visibility.

22. Thirdly, the insured lorry should have had its tail lamp and the brake lights working especially while plying. It stands concluded that the insured lorry though had a valid policy it did not have a mandatory fitness certificate.

23. Presence or absence of such lights makes a world of difference. Brake lights are intended to caution as to whether the vehicle is slowing or has stopped altogether. Unless, the brake lights glow it would have been highly improbable for a vehicle coming behind to find out whether the vehicle front of it was in motion or had stopped.

24. In fact, during night times, even if brake lights were glowing, a driver from the back may not be able to gauge whether the vehicle was in motion or had stopped, if the driver chooses



to stop the vehicle suddenly. Further, the drivers are not expected to stop the vehicle in the middle of the Highway. In the present case, brake lights and the tail lamp of the insured lorry were not functional. The evidence of RW1 also indicates that the insured lorry also did not have fitness certificate at the time of accident.

25. Therefore, even if the 1st respondent/claimant had maintained sufficient distance from the insured lorry, the 1st respondent/claimant would have been unlikely to find out whether the insured lorry was moving in front of him or had stopped. The fact that the brake lights and the tail lamp were not working shows, the driver of the lorry decided to take risk. He was certainly negligent.

26. In my view, the absence of glow from the tail lamp and the brake lights from the insured vehicle solely contributed to the accident. The fact that the insured lorry also did not have a valid fitness certificate at the time of accident indicates that the owner of the insured lorry had taken the risk to allow the same to ply on a highway in the night to put the life of the travellers of the highway.

27. In my view, the Tribunal has come to correct conclusion that the driver of the insured lorry was negligent and was responsible for the accident. Since there is a violation of conditions of the policy, the Tribunal was also justified in directing the appellant Insurance Company to pay compensation to the 1st respondent/claimant with liberty to the appellant Insurance Company to recover the same from the owner of the insured lorry.

28. Now, coming to the supplementary issue as to whether the 1st respondent/claimant is entitled for enhanced compensation for a sum of Rs.5,12,000/- in the light of the decision of the Division Bench of this court in Nagaraj's case (supra) or not, it is to be noted that the Hon'ble Supreme Court in Nagappa Vs. Gurudayal Singh, 2004 (2) TNMAC 398, has long back recognized that it is the not only the duty of the Tribunals and the High Courts but also its duty to award just compensation in case the claimant deserves such compensation.

29. The facts indicate that 1st respondent/claimant had suffered a permanent partial disability. Before the Tribunal, the 1st respondent/claimant had claimed a total compensation of Rs.3,00,000/- only.

30. To do complete justice, powers are vested with appellate courts under Order 41 Rule 33 of CPC to modify the impugned Judgment and Degree.



31. In this case admittedly, the 1st respondent/claimant had suffered dislocation of the right hipbone, multiple fracture to his hipbone, fracture to the leg below the knee, right Articular Cartilage of hip joint dislocation, restricted movement of the right Articular Cartilage, restricted movement of the right knee Articular Cartilage. The disability assessed by PW2 Doctor is 50%. Thus, this is a case which there is a permanent partial disability.

32. The 1st respondent/claimant cannot be employed as a lorry driver for rest of his life considering the nature of the injury and disability associated with it. At the same time, the 1st respondent/claimant was capable of finding employment in any other avocation involving no skills. Therefore, functional disability can be assessed as 20% percent.

33. The Hon'ble Supreme Court in Raj Kumar Vs. Ajay Kumar and Another, (2011) 1 SCC 343 has given some guidelines and has observed as follows:-

8. Disability refers to any restriction or lack of ability to perform an activity in the manner considered normal for a human being. Permanent disability refers to the residuary incapacity or loss of use of some part of the body, found existing at the end of the period of treatment and recuperation, after achieving the maximum bodily improvement or recovery which is likely to remain for the remainder life of the injured. Temporary disability refers to the incapacity or loss of use of some part of the body on account of the injury, which will cease to exist at the end of the period of treatment and recuperation. Permanent disability can be either partial or total. Partial permanent disability refers to a person's inability to perform all the duties and bodily functions that he could perform before the accident, though he is able to perform some of them and is still able to engage in some gainful activity. Total permanent disability refers to a person's inability to perform any avocation or employment related activities as a result of the accident. The permanent disabilities that may arise from motor accident injuries, are of a much wider range when compared to the physical disabilities which are enumerated in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 ("the Disabilities Act", for short). But if any of the disabilities enumerated in Section 2(i) of the



Disabilities Act are the result of injuries sustained in a motor accident, they can be permanent disabilities for the purpose of claiming compensation.

WEB COPY

12. Therefore, the Tribunal has to first decide whether there is any permanent disability and, if so, the extent of such permanent disability. This means that the Tribunal should consider and decide with reference to the evidence:

- (i) whether the disablement is permanent or temporary;
- (ii) if the disablement is permanent, whether it is permanent total disablement or permanent partial disablement;
- (iii) if the disablement percentage is expressed with reference to any specific limb, then the effect of such disablement of the limb on the functioning of the entire body, that is, the permanent disability suffered by the person.

If the Tribunal concludes that there is no permanent disability then there is no question of proceeding further and determining the loss of future earning capacity. But if the Tribunal concludes that there is permanent disability then it will proceed to ascertain its extent. After the Tribunal ascertains the actual extent of permanent disability of the claimant based on the medical evidence, it has to determine whether such permanent disability has affected or will affect his earning capacity.

13. Ascertainment of the effect of the permanent disability on the actual earning capacity involves three steps. The Tribunal has to first ascertain what activities the claimant could carry on in spite of the permanent disability and what he could not do as a result of the permanent disability (this is also relevant for awarding compensation under the head of loss of amenities of life). The second step is to ascertain his avocation, profession and nature of work before the accident, as also his age. The third step is to find out whether (i) the claimant is totally disabled from earning any kind of livelihood, or (ii) whether in spite of the permanent disability, the claimant could still effectively carry on the



WEB COPY

activities and functions, which he was earlier carrying on, or (iii) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions so that he continues to earn or can continue to earn his livelihood.

17. If a doctor giving evidence uses technical medical terms, the Tribunal should instruct him to state in addition, in simple non-medical terms, the nature and the effect of the injury. If a doctor gives evidence about the percentage of permanent disability, the Tribunal has to seek clarification as to whether such percentage of disability is the functional disability with reference to the whole body or whether it is only with reference to a limb. If the percentage of permanent disability is stated with reference to a limb, the Tribunal will have to seek the doctor's opinion as to whether it is possible to deduce the corresponding functional permanent disability with reference to the whole body and, if so, the percentage.

34. The Court thereafter further summarized as follows:-

19. We may now summarise the principles discussed above:

(i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.

(ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that the percentage of loss of earning capacity is the same as the percentage of permanent disability).

(iii) The doctor who treated an injured claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard to the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.

(iv) The same permanent disability may result in different percentages of loss of earning capacity



WEB COPY

in different persons, depending upon the nature of profession, occupation or job, age, education and other factors.

20. The assessment of loss of future earnings is explained below with reference to the following illustrations:

Illustration A.— The injured, a workman, was aged 30 years and earning Rs. 3000 per month at the time of accident. As per doctor's evidence, the permanent disability of the limb as a consequence of the injury was 60% and the consequential permanent disability to the person was quantified at 30%. The loss of earning capacity is however assessed by the Tribunal as 15% on the basis of evidence, because the claimant is continued in paretemployment, but in a lower grade. Calculation of compensation will be as follows:

- (a) Annual income before the accident : Rs.36,000
- (b) Loss of future earning per annum
(15% of the prior annual income) : Rs. 5,000
- (c) Multiplier applicable with reference
to age : 17
- (d) Loss of future earnings : (5400 x 17): Rs.91,800

Illustration B.— The injured was a driver aged 30 years, earning Rs. 3000 per month. His hand is amputated and his permanent disability is assessed at 60%. He was terminated from his job as he could no longer drive. His chances of getting any other employment was bleak and even if he got any job, the salary was likely to be a pittance. The Tribunal therefore assessed his loss of future earning capacity as 75%. Calculation of compensation will be as follows:

- (a) Annual income prior to the accident: Rs.36,000
- (b) Loss of future earning per annum
(75% of the prior annual income) : Rs.27,000
- (c) Multiplier applicable with reference
to age : 17
- (d) Loss of future earnings (27000x17) : Rs.4,59,000

Illustration C.— The injured was aged 25 years and a final year Engineering student. As a result of the accident, he was in coma for two months, his right hand was amputated and vision was affected. The permanent disablement was assessed as 70%. As



WEB COPY

the injured was incapacitated to pursue his chosen career and as he required the assistance of a servant throughout his life, the loss of future earning capacity was also assessed as 70%. The calculation of compensation will be as follows:

- (a) Minimum annual income he would have got if had been employed as an engineer : Rs.60,000
- (b) Loss of future earning per annum (70% of the expected annual income) : Rs.42,000
- (c) Multiplier applicable (25years) : 18
- (d) Loss of future earnings (42,000 x 18) : Rs.7,56,000

[Note.— The figures adopted in Illustrations (A) and (B) are hypothetical. The figures in Illustration (C) however are based on actuals taken from the decision in Arvind Kumar Mishra [(2010) 10 SCC 254 : (2010) 3 SCC (Cri) 1258 : (2010) 10 Scale 298]

21. After the insertion of Section 163-A in the Act (with effect from 14-11-1994), if a claim for compensation is made under that section by an injured alleging disability, and if the quantum of loss of future earning claimed, falls under the Second Schedule to the Act, the Tribunal may have to apply the following principles laid down in Note (5) of the Second Schedule to the Act to determine compensation:

"5. Disability in non-fatal accidents.— The following compensation shall be payable in case of disability to the victim arising out of non-fatal accidents:

Loss of income, if any, for actual period of disablement not exceeding fifty-two weeks. PLUS either of the following:-

(a) In case of permanent total disablement the amount payable shall be arrived at by multiplying the annual loss of income by the multiplier applicable to the age on the date of determining the compensation, or

(b) In case of permanent partial disablement such percentage of compensation which would have been payable in the case of permanent total disablement as specified under Item (a) above.

Injuries deemed to result in permanent total disablement/permanent partial disablement and percentage of loss of earning capacity shall be as per Schedule I under the Workmen's Compensation



(emphasis supplied)

36. The income of the 1st respondent/claimant has been taken as Rs.3000/-. It appears to be very low considering the fact that the 1st respondent/claimant was a driver. The Hon'ble Supreme Court has taken the notional income of a vegetable vendor as Rs. 6500/- in Syed Sadiq Vs. United India Insurance Co. Ltd., (2014) 2 SCC 735. In this case, the 1st respondent/claimant has declared a monthly income of Rs.4,500/-. It appears to be reasonable. Therefore, income of the 1st respondent/claimant is taken as Rs.4500/- as declared in the claim petition. The Tribunal has also awarded meagre amount under the other conventional heads.

Head and Calculation	Compensation claimed by the 1 st respondent/claimant	Compensation awarded by the Tribunal
Loss of income for 8 months	-	Rs. 24,000/-
Permanent Disability	Rs.2,00,000/-	Rs. 1,30,000/-
Loss of earning power	Rs. 30,000/-	-
Transport Expenses	Rs. 25,000/-	Rs. 2,000/-
Extra Nourishment	Rs. 10,000/-	Rs. 2,000/-
Attendar Charges	-	Rs. 2,000/-
Pain and Sufferings	Rs. 35,000/-	Rs. 20,000/-
Total	Rs.3,00,000/-	Rs. 1,80,000/-

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



enhanced as follows even though the 1st respondent/claimant has not filed an appeal or a cross objection :-

Heads and Calculation		Compensation enhanced by this Court
# Monthly Income	: Rs.4,500/-	Rs.2,72,160/-
# Annual Income before the accident (4500 x 12)	: Rs.54,000/-	
# Loss of future earning per annum at 20% (54,000 x 20/100)	: Rs.10,800/-	
** Future Prospectus at 40% (10,800 x 40/100)	: Rs. 4,320/-	
	----- :Rs.15,120/- -----	
* Multiplier applicable with reference to the age : 18 (15,120x18)	:Rs.2,72,160/-	
Attendar Charges		Rs. 5,000/-
Extra Nourishment		Rs. 5,000/-
Pain and Sufferings		Rs. 25,000/-
Total		Rs.3,07,160/-

As per the decision in Raj Kumar's case (supra).

* As per the decision in National Insurance Company Limited Vs. Pranay Sethi and Others, (2017) 16 SCC 680.

** As per the decision of the in Sanjay Verma Vs. Haryana Roadways, (2014) 3 SCC 210 and V.Mekala Vs. Malathi and Another, (2014) 11 SCC 178.

39. Since no cross objection or an appeal for enhancement of compensation was not filed by the 1st respondent/claimant, he is not entitled to interest on the enhanced amount of compensation awarded by this Court.

40. Therefore, the appellant Insurance Company is directed to deposit the enhanced amount of compensation of Rs.1,27,160/- (3,07,160 - 1,80,000), within a period of six weeks from the date of receipt of a copy of this Judgment.

41. The 1st respondent/claimant is therefore directed to pay the court fee on the enhanced amount of compensation of



Rs.1,27,160/- before this Court, within a period of two weeks from the date of receipt of a copy of this Judgment.

42. The 1st respondent/claimant shall produce the proof of payment of Court fee within the time prescribed above, before the Tribunal. On production of proof of payment of court fee, the 1st respondent/claimant is permitted to withdraw the enhanced amount of compensation, by filing suitable application before the Tribunal.

43 If the amount of compensation awarded by the Tribunal has not deposited by the appellant Insurance Company, it is also directed to deposit the same together with interest as directed by the Tribunal, less the amount already deposited if any, within the aforesaid period.

44. On such deposit of compensation awarded by the Tribunal, the 1st respondent/claimant is permitted to withdraw the same together with interest as directed by the Tribunal, less the amount already withdrawn if any, by filing suitable application before the Tribunal.

45. This Civil Miscellaneous Appeal is accordingly disposed of with the above observations. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

jen

To:

The Principal Subordinate Judge,
The Motor Accidents Claims Tribunal,
Thiruvannamalai District.

Copy To:

The Section Officer,
V.R.Section, High court, Madras.

C.M.A.No.2557 of 2011
and M.P.No.1 of 2011

BS (CO)
SB(02/08/2021)