



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 16.12.2020

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD)No.100 of 2009

K.Sivaji

.. Appellant

vs.

1.P.Subramani

2.The Branch Manager,
M/s United India Insurance Company Ltd.,
No.5, Big Bazaar Street,
Dharapuram.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 against the Judgment and decree in MCOP No.734 of 2003 dated 16.10.2007 on the file of the Motor Accident Claims Tribunal, Additional District and Sessions Judge (Fast Track Court No.III) Madurai.

For Appellant : Mr.K.Samidurai
For Respondents : Mr.J.S.Murali (for R2)

J U D G M E N T

Dissatisfied with the quantum awarded by the Motor Accident Claims Tribunal, Fast Track Court No.3, Madurai, passed in MCOP No.734/2003, the claimant has preferred this appeal seeking enhancement of compensation.

2.Brief facts of the case would run thus:-

This is case of injury. The claimant at the relevant point of time, was 35 years old. According to him, he was working as workshop mechanic and was earning Rs.5,000/- per month. However, in the accident that had taken place on 29.04.2002, he sustained injury and also lost his sight in right eye.

3.The grievance of the appellant/claimant is that though the Tribunal found that the driver of the offending vehicle bearing registration No.TSE 5121 was responsible for the accident, has awarded lesser compensation. Since there is no dispute with regard to the finding on negligence, it is unnecessary to elaborate on that aspect.

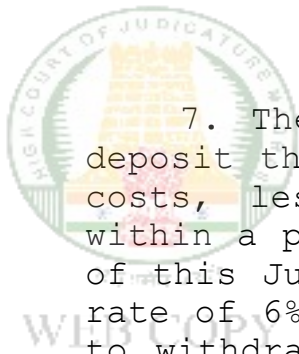


4.Insofar as quantum is concerned, the appellant/claimant, who was examined as P.W.1, stated that he sustained injury on his right eye and right leg and his right eye sight is lost and there is disfigurement in his face also. He further deposed that from 29.04.2002 to 03.06.2002, he took treatment as inpatient at LKM Hospital, Erode. P.W.2, Dr.Chidamparam examined the appellant/claimant on 22.09.2007 and found that the claimant's right eye sight was totally lost and there is disfigurement in his face and he issued Ex.P.8 stating that the claimant suffered 55% permanent disability. Ex.P.1-First Information Report, Ex.P.4-Wound Certificate corroborated the evidence of P.W.1 and P.W.2. However, the Tribunal has taken disability as 30% and awarded total compensation of Rs.55,000/-.

5.It is not in dispute that the claimant herein suffered injury in the accident that had taken place on 29.04.2002 and the medical records show that he was continuously taking treatment for a period of 35 days and he also lost his eye sight. Ex.P.7 medical bills and Ex.P.9 X-rays were also produced before the Tribunal.

6.Considering the evidences, this Court finds that the Tribunal has not given valid reason to fix the disability at 30%. Accordingly, this Court is of the opinion that the appellant/claimant is entitled for enhancement of compensation and it has been enhanced from Rs.55,000/- to Rs.1,40,000/- as follows:-

Sl. No.	Heads	Amount awarded by Tribunal (Rs.)	Amount / enhanced / reduced by this Court (Rs.)	Total (Rs.)
1.	Loss of Income	9,000.00	(+) 6,000.00	15,000.00
2.	For Transportation	500.00	(+) 500.00	1,000.00
3.	For Extra Nourishment	500.00	(+) 1,500.00	2,000.00
4.	For Medical Expenses	1,000.00	(+) 1,000.00	2,000.00
6	For Pain and Suffering	9,000.00	(+) 1,000.00	10,000.00
7	For Disability 55%	35,000.00	(+) 75,000.00	1,10,000.00
	Total	55,000.00	85000.00	1,40,000.00



7. The second respondent - Insurance Company is directed to deposit the above modified award amount with accrued interest and costs, less the amount already deposited, before the Tribunal within a period of eight weeks from the date of receipt of a copy of this Judgment. The enhanced amount will carry interest at the rate of 6% per annum. On such deposit, the claimant is permitted to withdraw the award amount, less the amount already withdrawn, if any, together with proportionate interest and costs.

8. For the foregoing reasons, the civil miscellaneous appeal is partly allowed and the Judgment and Award, dated 16.10.2007, passed in M.C.O.P.No.734 of 2003, by the Motor Accident Claims Tribunal / Additional District and Sessions Judge, Fast Track Court No.3, Madurai, are modified to the extent as indicated above. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

skn

To

1.The Additional District and Sessions Judge,
Motor Accident Claims Tribunal,
(Fast Track Court No.III) Madurai.

2.The Record Keeper-2 copies
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.K.SAMIDURAI, Advocate (SR-25942[F] dated 17/12/2020)

+1 CC to Mr.J.S.MURALI, Advocate (SR-26470[F] dated 21/12/2020)

C.M.A(MD)No.100 of 2009

16.12.2020

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