



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.1888 of 2021
and C.M.P.No.10199 of 2021

Tamilselvan

.. Appellant/Petitioner

Vs.

1. M/s.Aravind Petroleums,
Having office at No.86/99,
Varadha Muthiappan Street,
Chennai - 600 001.

2. United India Insurance Company Limited,
Having office at No.153, J.N.Road,
Near Shanthi Kalyana Mandapam & Railway Station,
Thiruvallur -602 001.

.. Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 seeking to set aside the judgement and decree dated 28.09.2020, made in M.C.O.P.No.210 of 2019, on the file of the Motor Accidents Claims Tribunal No.II, Special Sub Court, Thiruvallur.

For Appellant : Mr.M.Sivakumar

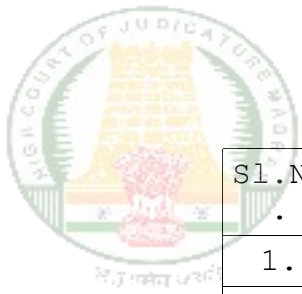
For Respondent 2 : Mr.M.J.Vijayaraghavan

J U D G M E N T

(The case has been heard through video conference)

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned Award dated 28.09.2020, passed by the Motor Accidents Claims Tribunal, Special Sub Court, Thiruvallur in M.C.O.P.No.210 of 2019.

2. The appellant/claimant not satisfied with the quantum of compensation awarded by the Tribunal has preferred this appeal seeking for enhancement. The details of the compensation awarded by the Tribunal under the impugned Award are as follows:



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Sl.No	Heads	Amount in Rs.
1.	Loss of income	72,000
2.	Physical disability	2,10,000
3.	Medical Bills	5,000
4.	Transport expenses	5,000
5.	Extra nourishment	10,000
6.	Damage to clothing and articles	1,000
7.	Pain and sufferings	40,000
8.	Attender charges	5,000
9.	Loss of happiness and amenities	50,000
	Total	3,98,000

3. The appellant/claimant sustained the following injuries on 10.05.2019, as a result of the accident caused by the vehicle insured with the second respondent:

- "1. Fracture of right hand,
2. Severe bleeding injuries (sutured) on the right knee & right foot, and
3. Severe bleeding injuries (sutured) on the fore head and right index finger."

4. The nature of injuries sustained by the appellant/claimant and the cause of the accident has not been disputed by the respondents. The Medical Board has assessed the disability of the appellant/claimant at 60 %, which has been accepted by the Tribunal, however the Tribunal has awarded disability compensation at Rs.2,10,000/- to the appellant/claimant calculated at the rate of Rs.3,500/- per percentage of disability of the 60% disability suffered by the appellant/claimant. This Court is of the considered view that the Tribunal has not taken into consideration the year of the accident before assessing the disability compensation. If the year of the accident was taken into consideration, the appellant/claimant would have got higher compensation towards his disability. This Court after giving due consideration to the year of the accident reassess the disability compensation at Rs.3,00,000/- calculated at the rate of Rs.5,000/- per percentage of disability of 60% instead of Rs.2,10,000/- erroneously assessed by the Tribunal at Rs.3,500/- per percentage of disability.

5. The Tribunal has awarded compensation of Rs.72,000/-



for loss of earning calculated at Rs.9,000/- p.m for 8 months, Rs.5,000/- towards medical expenses, Rs.5,000/- towards attender charges, Rs.40,000/- towards pain and sufferings, Rs.10,000/- towards extra nourishment, Rs.5,000/- towards transportation, Rs.50,000/- towards loss of amenities, Rs.1,000/- towards cloth damages, which cannot be considered to be inadequate as alleged by the appellant/claimant and the same is confirmed by this Court.

6. For the foregoing reasons, the compensation awarded by the Tribunal under the impugned Award is enhanced to Rs.4,88,000/- instead of Rs.3,98,000/- awarded by the Tribunal. The details of the compensation now awarded by this Court is detailed hereunder:

Sl No	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or set aside or granted or reduced (Rs.)
1.	Loss of income	72,000	72,000	Confirmed
2.	Physical disability	2,10,000	3,00,000	Enhanced
3.	Medical Bills	5,000	5,000	Confirmed
4.	Transport expenses	5,000	5,000	Confirmed
5.	Extra nourishment	10,000	10,000	Confirmed
6.	Damage to clothing and articles	1,000	1,000	Confirmed
7.	Pain and sufferings	40,000	40,000	Confirmed
8.	Attender charges	5,000	5,000	Confirmed
9.	Loss of happiness and amenities	50,000	50,000	Confirmed
	Total	3,98,000	4,88,000	Enhanced by Rs.90,000/-

7. In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation of Rs.3,98,000/- awarded by the Tribunal is hereby enhanced to Rs.4,88,000/- together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit. The second respondent / insurance company is directed to deposit the enhanced award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a



period of four weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.210 of 2019, on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Thiruvallur. On such deposit, the appellant/claimant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount, if any, already withdrawn by making necessary applications before the Tribunal. The appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation now determined by this Court. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal No.II,
Special Sub Court, Thiruvallur.

Copy To

The Section Officer,
VR Section, High Court,
Madras.

+1cc to Mr.C.Prabakaran, Advocate SR.No.55493

C.M.A.No.1888 of 2021
and C.M.P.No.10199 of 2021

CP(CO)
GN(26/11/2021)