



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2021

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD) .No.512 of 2019

Pandi Selvam

... Appellant/ Claimant

Vs.

1.Vijaya Raja
2.The Branch Manager
Oriental Insurance Company Ltd.,
Divisional Office
P.K.N.School Building 1st Floor
306/18-Madurai Road
Thirumangalam
Madurai 625 706

....Respondents/Respondents

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to modify the Judgment and Decree dated 08.09.2017 made in M.A.C.O.P.No.11 of 2013 on the file of the Motor Accident Claims Tribunal (Principal Sub Court), Dindigul and enhance the amount awarded by the Tribunal.

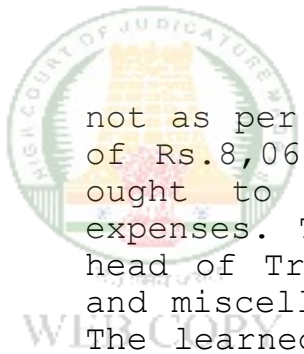
For appellant	:	Ms.M.Sudha Rani
For R1	:	No appearance
For R2	:	Mr.A.Ilango

JUDGMENT

This Civil Miscellaneous Appeal has been filed to modify the Judgment and Decree dated 08.09.2017 made in M.A.C.O.P.No.11 of 2013 on the file of the Motor Accident Claims Tribunal (Principal Sub Court), Dindigul and enhance the amount awarded by the Tribunal.

2. It is a case of injury. The manner of the accident is not in dispute. The Tribunal has awarded a sum of Rs.8,06,000/- towards Medical Bills, Rs.20,000/- towards transport charges; Rs.25,000/- towards nutrition; Rs.1,00,000/- towards pain and sufferings; Rs.15,000/- towards future medical expenses and Rs.1,31,400/- towards attendance charges; Rs.1,00,000/- towards future prospects; Rs.1,000/- towards damages to clothes, totally a sum of Rs.11,98,400/- as compensation, with 7.5% interest per annum from the date of petition till the date of realization. The second respondent / Insurance Company was directed to pay the entire compensation to the claimant and not satisfied with the same, the appellant / claimant has filed this appeal seeking to enhance the compensation.

3. The learned counsel appearing for the appellant / claimant would submit that the medical expenses incurred by the claimant was



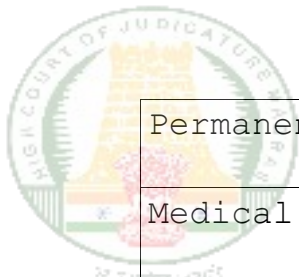
not as per the bills and the Tribunal has awarded only a lesser sum of Rs.8,06,000/- under the head of medical expenses. The Tribunal ought to have awarded a sum of Rs.10,00,000/- under medical expenses. The Tribunal has awarded a meagre compensation under the head of Transport expenses without considering the actual expenses and miscellaneous expenses incurred during travel by the appellant. The learned counsel would further submit that the tribunal has not taken into consideration the future medical expenses, pain and suffering, additional expenses for nourishment and the loss of enjoyment of life in a right perspective and awarded lesser compensation. In any event, the compensation awarded by the Motor Accident Claims Tribunal is very low and it is passed without following the Apex Court Judgments. The appellant would further state that he is legally entitled to get a compensation of Rs.20,00,000/-Thus, he would pray to enhance the compensation.

4. The learned counsel appearing for the second respondent/Insurance Company strenuously submitted that the Tribunal has awarded a reasonable amount as compensation and therefore, the same need not be interfered with.

5. Heard the learned counsel for the appellant as well as the second respondent and perused the records carefully.

6. The accident is of the year 2011. At the time of the accident, the claimant was aged about 47 years. The above appeal has been filed questioning the quantum. The appellant/claimant is a Police by avocation and still he is continuing in service and he has been given lighter job, therefore, there is no loss of income. However, the disability has been assessed as 50% and the learned Tribunal ought to have given Rs.3000/- per percentage of disability and no reason has been given why the amount has not been granted for denying compensation on account of his disability. Therefore, as per the decision of the Hon'ble Supreme Court in **Vimal Kanwar Vs. Kishore Dan**, reported in **2013(1) TN MAC 641 (SC)**, this Court is inclined to award Rs.3,000/- per percentage of disability. Accordingly, the amount awarded on account of disability is Rs.1,50,000/- (50% x Rs.3000 = Rs.1,50,000/-). In respect of future medical expenses, considering the nature of injury, it is necessary for the appellant to take continuous physiotherapy treatment, therefore, a sum of Rs.15,000/- can be increased to Rs.50,000/-.

7.Except the above modification, the compensation under other heads are not interfered with. Accordingly, the award passed by the Tribunal is enhanced from Rs.11,98,400 /- to 13,83,400/-. So far as the interest is concerned, the rate of interest i.e., 7.5% p.a., fixed by the Tribunal is confirmed. Thus, the compensation is calculated as follows:



Permanent disability (50%Rs.3000)	Rs. 1,50,000/-
Medical expenses	Rs. 8,06,000/-
Transport charges	Rs. 20,000/-
Nutrition	Rs. 25,000/-
Pain and Suffering	Rs. 1,00,000/-
Future Medical Expenses	Rs. 50,000/-
Future amenities	Rs. 1,00,000/-
Damages to clothes	Rs. 1,000/-
Attendance Charges	Rs. 1,31,400/-
Total enhanced Compensation	Rs. 13,83,400/-

8. In view of the above, the award is enhanced from Rs.11,98,400/- to Rs.13,83,400/-. The 2nd respondent / Insurance Company is directed to deposit the entire award amount, less the amount already deposited, with accrued interest and costs, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant /claimant is permitted to withdraw the entire amount awarded with accrued interest and costs without filing an application before the Tribunal. The claimant is directed to pay the Court fee, if any to be payable for the enhanced amount within a period of two weeks from the date of receipt of a copy of this judgment.

9. This Civil Miscellaneous Appeal is accordingly partly allowed. No costs.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1.The Principal Subordinate Judge,
Motor Accident Claims Tribunal,Dindigul



2.The Record Keeper, (2C)
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.A.ILANGO, Advocate (SR-9091[F] dated 05/03/2021)

+1 CC to M/s.G.S.ASOK ADHITHYAN, Advocate (SR-8805[F] dated
04/03/2021)

C.M.A (MD) .No.512 of 2019
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KB (26.05.2021) 4P 6C