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C.M.A.No.2130 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2022

C O R A M

THE HONOURABLE Ms.JUSTICE P.T.ASHA

C.M.A.No.2130 of 2013

Dr.S.Rajamohan

.. Appellant

-Vs.-

1. K.Srinivasan
2. The United India Insurance Company Limited,  
Nethaji Road, Manjakuppam,  
Cuddalore

.. Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 20.06.2011 passed in M.C.O.P.No.1689 of 2006 on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate, Cuddalore to set aside the same.

For Appellant : Mr. R. Muralidharan  
For Respondents : Mr.A.Dhiraviyanathan[R2]  
R1 – Served-No Appearance

### **JUDGMENT**

The petitioner before the Tribunal below is the appellant herein. The appellant seeks enhancement of the Award passed by the Motor Accident



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Claims Tribunal (Chief Judicial Magistrate), Cuddalore in M.C.O.P.No. 1689 of 2006 dated 20.06.2011.

2. The petitioner is particularly aggrieved by the fact that though the petitioner who is a practicing Doctor has submitted his income tax returns, the Tribunal has fixed a notional income of just a sum of Rs.5,000/- and calculated the compensation on this basis.

3. Heard the learned counsel for the appellant and the learned counsel for the second respondent-Insurance Company and perused the materials available on record.

4. The appellant had filed Ex.P12-Income Tax acknowledgment which shows that the appellant has earned an annual income of around Rs.1,92,000/- for the assessment year just prior to the injuries. However, the Tribunal has adopted a notional income of Rs.5,000/- stating that the Doctor has resumed his work. The Tribunal has failed to appreciate the fact that the appellant has been assessed to a partial permanent disability of 45%,



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which has been reduced to 11% by the Tribunal.

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5. Considering the fact that the injuries sustained by the appellant is a partial permanent disability, he is entitled to a compensation by adopting a multiplier method. Therefore, the amount under the head of loss of future earnings would be a sum of Rs.2,32,320/-. Therefore, the re-worked compensation would be as follows:-

| <i><b>Heads</b></i>                                  | <i><b>Amount by the Tribunal in Rs.</b></i> | <i><b>Amount Awarded by this Court in Rs.</b></i>        |
|------------------------------------------------------|---------------------------------------------|----------------------------------------------------------|
| Loss of future earnings                              | <b>72,600</b>                               | <b>2,32,320</b><br><b>(Rs.16,000 x 12 x 11 x 11/100)</b> |
| Loss of income during the period of treatment        | 16,000                                      | 16,000                                                   |
| Pain and Sufferings                                  | 10,000                                      | 10,000                                                   |
| Extra Nourishment, assistance and transport expenses | 5,000                                       | 5,000                                                    |
| Medical expenses                                     | 98,760                                      | 98,760                                                   |
| <b>Total</b>                                         | <b>2,02,360</b>                             | <b>3,62,080</b>                                          |



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6. Therefore, this Civil Miscellaneous Appeal is partly allowed and the compensation of **Rs.2,02,360/-** awarded by the Tribunal is hereby enhanced to a sum of **Rs.3,62,080/-** together with interest @ 7.5 % per annum from the date of petition till the date of deposit. The respondents are directed to deposit the said amount to the credit of M.C.O.P.No.1689 of 2006 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. The appeal was filed with a delay of 296 days and the same was allowed by this Court on 21.06.2013 in M.P.No.1 of 2012 on condition that the claimant would not be entitled to interest for the said period. On such deposit being made, the claimant is permitted to withdraw the enhanced award amount along with interest except for the delayed period of 296 days and costs, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal. The claimant is directed to pay the Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time as the certified copy showing proof of



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payment of Court fee has been produced by the claimant. In other respects,  
the Award of the Tribunal is hereby confirmed. No costs.

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To

1. The Motor Accident Claims Tribunal  
/ Chief Judicial Magistrate, Cuddalore

2. The Section Officer,

V.R.Section, High Court, Madras.



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**P.T.ASHA, J.,**

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