



WEB COPY



C.M.A.No.1052 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

C.M.A.No.1052 of 2022

and

C.M.P.No.16754 of 2022

Babu

... Appellant

vs.

1.Saraswathi

2.The Branch Manager,
The New India Assurance Co., Ltd.,
Durugam Road, Kallakurichi,
Kallakurichi District.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, for enhancement of the compensation awarded in the judgment and decree dated 04.02.2022 made in M.C.O.P.No.212 of 2020 on the file of the Motor Accident Claims Tribunal (Third Additional District Court), Villupuram @ Kallakurichi.

For Appellant : Mr.N.Manoharan

For Respondents : Ms.A.L.Ganthimathi[R1]

Ms.R.Sree Vidhya [R2]



C.M.A.No.1052 of 2022

WEB COPY

JUDGMENT

The claimant has filed the above appeal seeking an enhancement of the award passed by the Motor Accident Claims Tribunal (Third Additional District Court), Villupuram @ Kallakurichi in M.C.O.P.No.212 of 2020.

2. The above petition has been filed seeking compensation of a sum of Rs.1,00,00,000/- for the injuries sustained by the petitioner in the road accident. It is his case that on 09.08.2020 at 9.50 a.m., when the petitioner was riding the two wheeler (Yamaha) bearing Reg.No.TN-32-AV-8853 along with his father-in-law, the 1st respondent's driver drove his vehicle (Tractor) bearing Reg.No.TN-32-S-6359 in a rash and negligent manner and dashed against the rear of the two wheeler, the petitioner sustained fracture at lip, teeth, head and spinal cord and injuries all over the body. The Tribunal has awarded a sum of Rs.30,44,663/- as total compensation.

3. The petitioner is aggrieved by the reduced compensation that has been granted to him and the appeal has now been preferred.



4. The learned counsel appearing on behalf of the appellant would submit that the appellant/petitioner has become immobilised his hip down and he requires the assistance of someone while moving around. He would further submit that no amount has been granted towards Future Medical Expenses and the Attender Charges also got to be enhanced since he would be in need of an attender through out his life.

5. On the contrary, the Insurance Company would submit that the Tribunal has granted a very reasonable award based on the documents that have been made available. Therefore, no exception can be taken to the award.

6. Admittedly, the petitioner has sustained the following injuries:

"(1) Fracture dislocation of D12 Vertebra – Traumatic Paraplegia, (2) Laceration over left upper lip, (3) Fracture of left 2 to 7 ribs, (4) Abrasion over left elbow and (5) multiple abrasions over left arm and as per Ex.P8, D12 Laminectomy D11 to L1 Posterior Stabilization was done."



C.M.A.No.1052 of 2022

7. The petitioner has sustained 90% disability as is evident from

Ex.C1. The Tribunal has taken into consideration the fact that for the daily labour, there is every chance of his getting a sum of Rs.9,000/- p.m., at the rate of Rs.500/- per day. However, the Tribunal had held that he would have earned atleast Rs.500/- per day for his work. However, it is argued that for some seasons he may not be employed and there is likelihood of not been employed through out the month, therefore, the Tribunal had arrived a notional income at Rs.9,000/-. This amount can be enhanced to Rs.10,000/-. In all other aspects, the compensation awarded by the Tribunal does not require any reconsideration and the Tribunal had granted adequate compensation. Though the petitioner has claimed the amount towards Future Medical Expenses no documents have been filed which shows that he is continuing his treatment and requires future medical treatment. The documents which have been filed would show that the petitioner had undergone physiotherapy for sometime. Therefore, the Compensation awarded by the Tribunal is reworked as below:



C.M.A.No.1052 of 2022

<i>S.No.</i>	<i>Description</i>	<i>Amount awarded by Tribunal</i>	<i>Amount awarded by this Court</i>	<i>Award confirmed or enhanced or granted or reduced</i>
1	Compensation for Injuries	Rs.22,68,000/-	Rs.25,20,000/-	Enhanced
2	Amount towards Pain & Sufferings	Rs. 1,00,000/-	Rs. 1,00,000/-	Confirmed
3	Amount towards Transport Charges	Rs. 20,000/-	Rs. 20,000/-	Confirmed
4	Amount towards Extra Nourishment	Rs. 10,000/-	Rs. 10,000/-	Confirmed
5	Amount towards attendant charges	Rs. 3,00,000/-	Rs. 3,00,000/-	Confirmed
6	Ex.P10 Medical Bills	Rs. 3,46,663/-	Rs. 3,46,663/-	Confirmed
	TOTAL	Rs.30,44,663/-	Rs.32,96,663/-	

8. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation of Rs.30,44,663/- awarded by the Tribunal is hereby Enhanced to a sum of **Rs.32,96,663/-**. Therefore, the 2nd respondent / Insurance Company is directed to deposit the enhanced amount of **Rs.32,96,663/-** to the credit of M.C.O.P.No.212 of 2020 on the file of the Motor Accident Claims Tribunal, Third Additional District Court,



C.M.A.No.1052 of 2022

Villupuram @ Kallakurichi together with interest @ 7.5% per annum from

the date of claim petition till the date of deposit and costs, less, the amount,

if any already deposited, within a period of four weeks from the date of receipt of a copy of this Judgement. On such deposit being made, the claimant is permitted to withdraw the amount now determined by this Court, as apportioned by the Tribunal, along with interest 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 payment of Court fee has been produced by the claimant. No costs. Consequently, connected miscellaneous petition is closed.

09.11.2022

Index : Yes/No

Speaking / Non-speaking order

ssn



WEB COPY



C.M.A.No.1052 of 2022

To:

1. The Motor Accident Claims Tribunal,
III Additional District Court,
Villupuram @ Kallakurichi.
2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.



WEB COPY



C.M.A.No.1052 of 2022

P.T.ASHA, J.,

ssn

C.M.A.No.1052 of 2022
and
C.M.P.No.16754 of 2022

09.11.2022