



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2022

CORAM:

THE HONOURABLE MRS.JUSTICE S.ANANTHI

Rev.ApplC. (MD)No.116 of 2021

S.Ashok Kumar

... Petitioner/Appellant/Claimnant

Vs.

1.S.Iyyadurai

2.The Manager,
Royal Sundaram Alliance Insurance
Company Limited,
No.6, Sorendo Building 1st Street,
Latis Bridge Road, Adayar,
Chennai - 600 020.

(The 1st Respondent notice is not necessary,
notice is dispensed with) ... Respondent/Respondent/Respondents

PRAYER : Review Application filed under Section 114 and Order 47 Rule 1 of Civil Procedure Code, to review the order passed in C.M.A (MD)No.983 of 2018 on the file this Court, dated 08.06.2021 and enhance the compensation in favour of the claimant.

Prayer in CMA(MD)No.983 of 2018:-

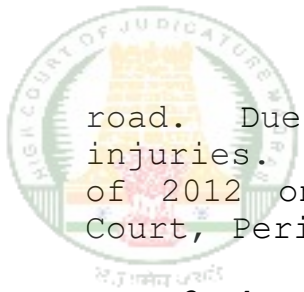
Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 preferred against the award of the Motor Accident Claims Tribunal, Sub Court, Periyakulam, dated 29.08.2016 made in M.C.O.P. No. 81 of 2012.

For Petitioner	: Mr.K.Kumaravel
For R1	: No Appearance
For R2	: Mr.S.Srinivasa Ragavan

JUDGMENT

The petitioner filed this Review Application to review the order passed in C.M.A(MD)No.983 of 2018 on the file of this Court, dated 08.06.2021 and enhance the compensation in favour of the claimant.

2. The short facts of the case is that on 17.01.2012 at about 20.00 hours the petitioner was travelling in Qualis Car bearing Registration No.TN-57-H-4007 from Lakshmipuram to Vadamadurai, while one Sathiskumar was driving the Car. When the Car nearing Thumanagundu Pirivu at Vadamadurai Bye-Pass road, on Dindigul to Trichy NH45, the driver of the Car suddenly turned and applied break to avoid to dash against the pedestrian, who was suddenly crossed the road and thereby the said Car was capsized on the middle of the



road. Due to the accident, the petitioner had sustained multiple injuries. The petitioner has filed claim petition in M.C.O.P.No.81 of 2012 on the file of the Motor Accidents Claims Tribunal/Sub Court, Periyakulam, seeking compensation of Rs.5,00,000/- .

3.The Tribunal, upon consideration of oral and documentary evidence, came to the conclusion that the driver of the Car was responsible for the accident and awarded Rs.52,500/- as compensation. Though the petitioner sustained 40% of disability due to fracture in the spinal card, the Tribunal not at all awarded any amount for disability. Aggrieved over the orders passed by the Tribunal, the petitioner has filed a Civil Miscellaneous Appeal in C.M.A(MD)No.983 of 2018 before this Court. Even in the appeal also, the disability was not considered and the compensation awarded by the Tribunal was confirmed. Therefore, the petitioner has filed this review application.

4.Heard Mr.K.Kumaravel, learned counsel appearing for the petitioner and Mr.S.Srinivasa Raghavan, learned counsel appearing for the second respondent. No representation on behalf of the first respondent.

5.The learned counsel for the petitioner contended that after the accident, he has taken treatment in Rajarajeswari Hospital, Dindigul from 17.01.2012 to 18.01.2012 and he was referred to Jaganath Hospital, Dindiul and was admitted as inpatient from 18.01.2012 to 19.01.2012 and then he was referred to Jawahar Hospital, Madurai and admitted as inpatient from 20.01.2012 to 23.01.2012. He further submitted that the petitioner sustained fracture in the spinal card and Doctor, who was examined as PW2 has assessed 40% disability and Scan Report was also marked as Ex.P22.

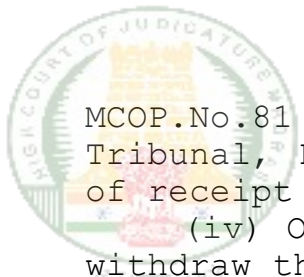
6.A perusal of records would show that in this Court did not consider the grounds set out in C.M.A(MD)No.983 of 2018. So it is an error on the basis of the record. Since the petitioner has sustained 40% disability and Scan Report (Ex.P22) was also marked to that effect, this Court is inclined to give Rs.3,000/- for 1 % disability. Hence, loss of income is arrived at Rs.3,000/- x 40% = Rs.1,20,000/- .

7. In the result,

(i) the Review Application is allowed.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.52,500/- to **(*)Rs.1,72,500/-[Additional Amount of Rs. 1,20,000/-]** with interest at the rate of 7.5% per annum.

(iii) The second respondent/Royal Sundaram Alliance Insurance Company Limited, is directed to deposit the enhanced compensation amount i.e., **(*)Rs.1,72,500/-** less the amount already deposited, if any, together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of



MCOP.No.81 of 2012 on the file of the Motor Accident Claims Tribunal, Periyakulam, within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the petitioner is permitted to withdraw the same after following due process of law. No Costs.

Sd/-

Assistant Registrar (Cs-II)

(*) Corrected as per the order of this court dated 12.04.2022 made in Rev. Application. No. 116/2021

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsd

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

(*) To be substituted the order already despatched on 01.04.2022
To

1.The Sub Judge, Motor Accident Claims Tribunal/ Sub Court,
Periyakulam.

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

+1 CC to M/s.S.SRINIVASA RAGHAVAN, Advocate (SR-4017[F] dated 03/02/2022)

+1 CC to M/s.K.KUMARAVEL, Advocate (SR-4284[F] dated 04/02/2022)

Rev.Appl.(MD)No.116 of 2021
03.02.2022

SE (CO)

KB(30.03.2022) 3P 6C

SE (CO)

KB(28.04.2022) 3P 6C