



C.M.A.No.1388 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2023

CORAM:

THE HONOURABLE MR. JUSTICE **K. RAJASEKAR**

C.M.A.No.1388 of 2021

M.Paramesh

... Appellant

Vs.

1.VRL Logistics Ltd by its
Managing Director,
NH-4, Bangalore Road, Varur, Hubili,
Aralikatti, Karnataka - 581 207,
Karnataka State.

2.The Manager,
New India Assurance Company Limited,
New Cotton Market, Srinath Complex, 2nd Floor,
Hubili Divisional Office, Karnataka - 580 029.
Karnataka State.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 29.11.2019 passed in M.C.O.P.No.157 of 2017 on the file of the Motor Accident Claims Tribunal (Sub Judge), Rasipuram.



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For Appellant : Mr.R.Nalliyappan

For Respondent 1 : M/s.T.L.Rajasekar

For Respondent 2 : Mr.M.L.Ganesh

JUDGMENT

This Civil Miscellaneous appeal has been filed by the claimant seeking enhancement of compensation amount awarded in the judgment and decree dated 29.11.2019 passed in M.C.O.P. No.157 of 2017 on the file of the Motor Accident Claims Tribunal and Special Subordinate Court, Rasipuram.

2. For the sake of convenience, the parties are referred to herein according to their litigative status before the Tribunal. The case in brief is as follows:

On 18.04.2017 at about 6.50 p.m., when the petitioner was riding his cycle on the left side of the road, the driver of a lorry bearing registration No.KA 25 B-5035 drove the same in a rash and negligent manner in the same direction and hit the petitioner's cycle. In the said accident, the petitioner sustained grievous injuries on his right leg, head, eye, jaw and all over the body, due to which, his right leg was amputated. A case was



registered in Cr.No.279 of 2017 under Sections 279 and 338 of IPC by the Rasipuram Police. The petitioner filed the claim petition under Section 166 of Motor Vehicles Act, seeking compensation of sum of Rs.10,84,330/- with interest for the injuries sustained by him.

3. Aggrieved by the award, the petitioner has filed this appeal for enhancement of compensation.

4. The learned counsel for the appellant/petitioner submitted that the Tribunal has not properly fixed the notional income and also failed to award future prospects. He has also contended that the compensation awarded under various heads are on the lower side. Hence, he prays for the enhancement of compensation.

5. The learned Counsel for the Insurance Company submitted that in view of amputation of right leg of the appellant, the Tribunal has not properly fixed the compensation under various heads, taking into consideration the amputation of right leg of the appellant and 70% disability. Hence, he agreed for fixing the just compensation.



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6. Heard the submissions made by learned counsel for both sides and carefully perused the materials available on record.

7. On the side of the appellant, he examined himself as P.W1 and marked Ex.P1 to Ex.P.14. On the side of the respondents, no one was examined and no exhibits were marked.

8. The Tribunal, considering the employment of the appellant, has fixed a sum of Rs.6,000/- as notional income and thereafter, by adopting multiplier method, awarded compensation under the head of future income/loss of earning capacity.

9. This Court is of the view that, since the occurrence had taken place on 18.04.2017 and considering the age of the claimant at the time of occurrence and also the disability assessed at 70%, this Court fixed notional income is identical case as Rs.12,000/- and in this case also the notional income of the claimant is fixed as Rs.12,000/-. Accordingly, Rs.8,56,600/- awarded under the head of loss income is enhanced to Rs.17,13,600/-
(12,000x12x17x70/100)



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10. The Hon'ble Apex Court in Judgment Erudhaya Priya vs. State Express Transport Corporation Ltd., *[2020 SSCR 299 : 2020 ACJ 2159]* has held that, in the case of compensation awarded for loss of earning capacity, injured is entitled for future prospects. Hence, 40% of Income awarded for future prospects, and summed as Rs.3,42,720/-.

11. The Tribunal has awarded sum of Rs.50,000/- under the head of pain and suffering. This Court is of the view that the same is on lower side and it shall be enhanced to Rs.1 lakh. A sum of Rs.5,000/- awarded under the head of transportation charges is also enhanced to Rs.25,000/-.

12. The amount awarded by the Tribunal under the heads for nutrition and loss of clothing and ornaments viz., Rs.10,000/- and Rs.5,000/- are hereby confirmed.

13. Considering the fact that the appellant requires future medical treatment and for fixing artificial limb, this Court is inclined to award a sum of Rs.1,00,000/-. The Tribunal has also failed to award Attendant charges



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and also for the loss of amenities to which the claimant is entitled to.

Accordingly, Rs.30,000/- is awarded towards attendant charges and Rs.75,000/- for loss of amenities.

14. Thus, the compensation awarded by the Tribunal under various heads are hereby modified as follows:

Sl. No .	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted
1.	Loss of income	Rs.8,56,800/-	Rs.17,13,600/-	Enhanced
2.	Pain and sufferings	Rs.50,000/-	Rs.1,00,000/-	Enhanced
3.	Transportation	Rs.5,000/-	Rs.25,000/-	Enhanced
4.	Nutrition	Rs.10,000/-	-	Rejected
5.	Clothing and ornaments	Rs.5,000/-	-	Rejected
6.	Medical expenses	Rs.1,57,530/-	-	Rejected
7.	Attendant charges	-	Rs.30,000/-	Granted
8.	Loss of amenities	-	Rs.75,000/-	Granted
9.	Future prospects	-	Rs.3,42,720/-	Granted
10.	Future Medical expenses for artificial Limb	-	Rs.1,00,000/-	Granted
	Total	Rs.10,84,330/-	Rs.23,86,320/-	Enhanced by Rs.13,01,990/-



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15. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.10,84,330/- is hereby enhanced to Rs.23,86,320/- [Rupees Twenty Three Lakhs Eighty Six Thousand Three Hundred and Twenty only] together with interest at the rate of 7.5% per annum from the date of filing of Claim Petition till the date of deposit. The second respondent Insurance company is directed to deposit the award amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.157 of 2017, on the file of the Motor Accidents Claims Tribunal(Sub Judge), Rasipuram.

16. On such deposit, the appellant is permitted to withdraw the said amount, along with proportionate interest and costs, less the amount if any, already withdrawn. The Tribunal shall disburse the amount now awarded by this Court by directly giving credit to the Savings Bank Account of the



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claimant without any formal application. In other aspects, the award of the Tribunal shall stand confirmed. There shall be no order as to costs in the present appeal.

29.11.2023

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Index:Yes/No

Speaking Order:Yes/No

Neutral Citation Case: Yes/No



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K. RAJASEKAR, J.

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To:

1. The Sub Judge,
The Motor Accident Claims Tribunal, Rasipuram.
2. The Section Officer,
V.R.Section,
High Court, Chennai.

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29.11.2023