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C.M.A.No.1939 of 2018

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 01.11.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**C.M.A.No.1939 of 2018**

M.R.Karthick Ramchandrar

... Appellant

Vs.

1.K.Mani

2.United India Insurance Company Ltd.,  
Represented by its Branch Manager,  
Office at No.14/1-77-B,  
Puduchampalli,  
Mettur Dam,  
Salem District.

3.Vidyadhar Jat

4.ICICI Lombard Motor Insurance Co. Ltd.,  
Zenith House,  
Keshavrao Khade Marg,  
Mahalakshmi,  
Mumbai – 400 034.

... Respondents

**Prayer:**

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order and decree of the Motor Accidents Claims Tribunal cum Additional District Judge (FAC), Krishnagiri in M.C.O.P.No.306 of 2010 dated 28.03.2018.



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For Appellant : M/s.V.Srimathi

For Respondents : R1 – No Appearance  
Mr.C.Paranthaman for R2  
R3 – Not Ready Notice  
M/s.B.Siva Kollapan for R4

## **J U D G M E N T**

This appeal has been filed seeking to set aside the judgment and decree dated 28.03.2018 passed by the Motor Accidents Claims Tribunal cum Additional District Judge (FAC), Krishnagiri, in M.C.O.P.No.306 of 2010.

2.The brief facts of the case is that on 05.04.2009, the appellant claimant was travelling as a passenger in the private Omni bus (M.S.S.) bearing Registration No.TN-30-Y-1764 belonging to the first respondent and insured with the second respondent from Krishnagiri to Chennai. At about 04.00 hours, when the bus was nearing Baluchetty Sathram Junction Road from Krishnagiri towards Chennai, the driver of the bus tried to overtake a lorry bearing Registration No.MH-06-K-8739 and lost his control and hit the right side of the lorry, due to which, the appellant sustained injuries.



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3. Thereafter, the injured claimant/ appellant filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.20 Lakhs. After adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.3,04,000/- with interest at the rate of 7.5% p.a. from the date of petition till the date of realization and proportionate costs and directed the second respondent to deposit the compensation. Aggrieved by the same, the appellant claimant has filed this appeal for enhancement of compensation.

4. The learned counsel appearing for the appellant submitted that the appellant secured MBA Graduation from IIM, Kozhikode and he got job offer from Tolaram Group, Singapore during the final placements process held at IIM, Kozhikode and was posted at Lagos, Nigeria. However, prior to joining the post, the accident happened. Thereafter, the appellant secured job in Big Basket and is earning a sum of Rs.1,25,000/- per month. Due to the accident, the petitioner is unable to move his left hand and fingers and is unable to type in computer. Hence, the appellant suffer permanent disability, however, the Tribunal awarded compensation as though the disability is partial permanent disability. Further, the appellant was not able to earn any income for



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two months. Hence, the appellant is entitled to enhancement of compensation.

5.The learned counsel appearing for the second respondent Insurance Company submitted that the appellant did not suffer any amputation and the disability suffered by him is not functional disability. Even as per the statement of the appellant, he is employed in Big Basket and is earning a sum of Rs.1,25,000/- per month. The Doctor assessed the disability suffered by the appellant as 45% and at the relevant point of time Rs.3,000/- was awarded for per percent disability and the Tribunal rightly awarded the amount for partial permanent disability and the amount awarded under the other heads are also just and reasonable and hence, the impugned order warrants no interference.

6.Heard and perused the materials available on record.

7.Admittedly, on 05.04.2009, the appellant was travelling as a passenger in the private Omni bus (M.S.S.) belonging to the first respondent and insured with the second respondent from Krishnagiri to



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Chennai. At about 04.00 hours, when the bus was nearing Baluchetty Sathram Junction Road from Krishnagiri towards Chennai, the driver of the bus tried to overtake a lorry and lost his control and hit the right side of the lorry, due to which, the appellant sustained injuries.

8.The accident, the manner in which the accident happened and the educational qualification of the appellant are not disputed. Perusal of records disclose that earlier, the appellant got job offer from Tolaram Group, Singapore during the final placements process held at IIM, Kozhikode and was posted at Lagos, Nigeria and in the letter dated 11.07.2009 of the Tolaram Group, it has been mentioned that 'This is to certify that M.R.Karthik Ram Chandar is appointed as management Associate through Campus Recruitment at Indian Institute of Management, Kozhikode, Kerala, India. The total cost-to-company is Rs.2,095,851 (Rupees Twenty Lakh, Ninety five thousand, Eight hundred and Fifty One only). Further his posting location is Lagos, Nigeria.', however, he was not able to join in the said placement. After the accident, the appellant secured job in Big Basket and is earning a sum of Rs.1,25,000/- per month. Hence, the disability suffered by the appellant is not a functional disability.



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9.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.45,000/- for loss of income, Rs.15,000/- for transportation, Rs.7,500/- for extra nourishment, Rs.5,000/- for attenders, Rs.61,276.61/- for medical expenses, Rs.35,000/- for pain and sufferings, Rs.1,35,000/- for partial permanent disability and arrived at a total compensation of Rs.3,03,776.61/- rounded off to Rs.3,04,000/- with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

10.The appellant claim that he was not able to earn any income for two months. The amount awarded under the heads loss of income, extra nourishment and attender charges, in the opinion of this Court is low and this Court is inclined to enhance the amount awarded under the said heads. Accordingly, the amount awarded for loss of income is enhanced to Rs.2,00,000/- from Rs.45,000/-, the amount awarded for extra nourishment is enhanced to Rs.25,000/- from Rs.7,500/- and the amount awarded for attender charges is enhanced to Rs.10,000/- from Rs.5,000/-. However, the amount awarded under the other heads are just and reasonable and the same are confirmed.



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11. Accordingly, the compensation amount is re-assessed as follows:

| <b>S.No.</b> | <b>Description</b>           | <b>Amount Awarded<br/>by the Tribunal</b> | <b>Amount Awarded<br/>by this Court</b> |
|--------------|------------------------------|-------------------------------------------|-----------------------------------------|
| 1.           | Loss of income               | Rs. 45,000/-                              | Rs.2,00,000/-                           |
| 2.           | For extra nourishment        | Rs. 7,500/-                               | Rs. 25,000/-                            |
| 3.           | For transportation           | Rs. 15,000/-                              | Rs. 15,000/-                            |
| 4.           | For attenders                | Rs. 5,000/-                               | Rs. 10,000/-                            |
| 5.           | For medical expenses         | Rs.61,276.61/-                            | Rs.61,276.61/-                          |
| 6.           | Pain and sufferings          | Rs. 35,000/-                              | Rs. 35,000/-                            |
| 7.           | Partial permanent disability | Rs.1,35,000/-                             | Rs.1,35,000/-                           |
|              | Total                        | Rs.3,03,776.61/-                          | Rs.4,81,276.61/-                        |

12. The appellant claimant is entitled to total compensation of Rs.4,81,276.61/- rounded off to Rs.4,81,280/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

13. The civil miscellaneous appeal is allowed. The order and decree of the Motor Accidents Claims Tribunal cum Additional District Judge (FAC), Krishnagiri in M.C.O.P.No.306 of 2010 dated 28.03.2018, is modified to the above extent.

14. The second respondent Insurance Company is directed to



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deposit the modified/ enhanced award amount before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such deposit being made, the appellant/ claimant is permitted to withdraw modified/ enhanced award amount, along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellant/ claimant shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The appellant/ claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accidents Claims Tribunal cum Additional District Judge (FAC), Krishnagiri, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellant/ claimant.

15.The civil miscellaneous appeal is allowed. No costs.

**01.11.2023**

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal Cum  
Additional District Judge (FAC), Krishnagiri.

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**M.DHANDAPANI,J.**  
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