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CMA.No.1781 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2023

CORAM: JUSTICE N.SESHASAYEE

CMA.No.1781 of 2022

Arockia Inbaraj

... Appellant

-Vs-

1.Juliet Prema Arputham,
2.The Divisional Manager,
United India Insurance Co.Ltd.,
AR Plaza, No.35, 36 & 37,
40 Feet Road Extension,
Balaji Nagar, Pondicherry.

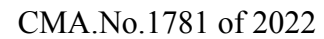
...Respondents

Prayer: Civil Miscellaneous Appeals filed under Section 173 of the M.V.Act, 1988, against the Judgment and Decree passed in M.C.O.P.No.445 of 2016, dated 20.11.2017, on the file of the Motor Accident Claims Tribunal, at Puducherry.

For Appellants	: Mr.K.Suryanarayanan
For R1	: No appearance
For R2	: M/s.R.Rathna Thara

JUDGMENT

26 year old Arockia Inbaraj suffered a road accident on 21.01.2016. He is a Police Constable and the accident had happened when he was on escort



Sl. No.	Heads of Compensation	Amount awarded by Tribunal (Rs.)
1.	Loss of earning capacity and permanent disability	1,95,000.00
2.	Pain and sufferings	1,00,000.00
3.	Loss of Amenities	1,00,000.00
4.	Extra Nourishment	25,000.00
5.	Attender Charges	30,000.00
6.	Transportation Charges	20,000.00



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Sl. No.	Heads of Compensation	Amount awarded by Tribunal (Rs.)
7.	Loss of Expectation of life	25,000.00
8.	Medical Expenses	2,00,000.00
9.	Loss of damage	5,000.00
10.	Future Medical Expense	25,000.00
Total :		7,25,000.00

2. Aggrieved by the inadequate compensation awarded for partial permanent disability, the claimant is before this Court.

3. The learned counsel appellant showed the photographs of the victim and this Court finds that his left arm has suffered serious injury. The nature of scars that he carries itself is scary.

4. The learned counsel for the appellant submitted that while the appellant may be earning, still he cannot use his left hand even for purposes associated with his very living. Hence, the Tribunal was in error in mechanically computing the compensation at Rs.3,000/- for every percentage of disability. Indeed, the Tribunal should have treated the disability of the appellant as a functional disability and should have



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applied multiplier method.

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5.Per contra, the learned counsel for the second respondent submitted that when once career prospects and earning capacity is not affected, it may not be appropriate to treat the disability as functional disability. He added that the award of the Tribunal is in order.

6.It may be that the appellant's career prospects might not have been affected but, the fact remains that with an injured left hand many a function, which he could do with the help of the left hand is seriously affected. It is not always necessary that one's limb must be amputated or one's career should come to an end for construing once disability as functional disability.

7.On evaluation of the facts before this Court, this Court considers it to be appropriate to treat the nature of disability suffered by the claimant/appellant as functional disability and determines the same at 35%.



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8.The claimant was earning Rs.22,390/- per month and since his career prospects are not affected, this Court does not intend to include any future prospects to the same. Applying a multiplier of 17, the total sum arrived is Rs.45,67,560/- and on reducing it to 35%, the sum awardable under the head of functional disability is determined at Rs.15,98,646/-. This Court does not intend to interfere with the other conventional heads of compensation as awarded by the Tribunal. The modified award will now read as below;

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of earning capacity and permanent disability	1,95,000/-	15,98,646/-	Enhanced
2.	Pain and Sufferings	1,00,000/-	1,00,000/-	Confirmed
3.	Loss of Amenities	1,00,000/-	1,00,000/-	Confirmed
4.	Extra	25,000/-	25,000/-	Confirmed



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	Nourishment			
5.	Attender Charges	30,000/-	30,000/-	Confirmed
6.	Transportation Charges	20,000/-	20,000/-	Confirmed
7.	Loss of Expectation of life	25,000/-	25,000/-	Confirmed
8.	Medical expenses	2,00,000/-	2,00,000/-	Confirmed
9.	Loss of damage	5,000/-	5,000/-	Confirmed
10	Future Medical Expense	25,000/-	25,000/-	Confirmed
	Grand Total	7,25,000/-	21,28,646/- -	Enhanced by 14,03,646/-

9.In fine, this Civil Miscellaneous Appeal is partly allowed and the compensation is enhanced from Rs.7,25,000/- to Rs.21,28,646. The second respondent/insurance company is stated to have deposited the sum as awarded by the Tribunal. The second respondent is now required to deposit the differential sum with interest at 7.5% less the interest payable for 755 days, within a period of eight (8) weeks from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the award amount, now determined by this Court, along with interest and costs, less the amount if any, already withdrawn. The



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appellant is directed to pay the necessary Court Fee, if any, on the enhanced award amount. No costs.

10.It is brought to the notice of the Court in an appeal preferred from MACT Puducherry, the appellant had paid Court fee both under the Puducherry Court Fees and Suits Valuation Act and the Tamil Nadu Court Fees and Suit Valuation Act. The Court fee, which he has now paid under the TN Court Fee and Suit Valuation Act is required to be refunded to the appellant.

09.11.2023

Tsg

To

- 1.The Motor Accident Claims Tribunal,
Puducherry.
- 2.The Section Officer,
V.R.Section, High Court, Madras.



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N.SESHASAYEE, J.,

Tsg

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