



C.M.A.No.2679 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

|                           |                             |
|---------------------------|-----------------------------|
| Reserved on<br>27.01.2023 | Pronounced on<br>10.02.2023 |
|---------------------------|-----------------------------|

CORAM

**THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN**

**C.M.A.No.2679 of 2022**

Arumugam  
S/o.Krishnasamy  
No.5/1B, Boolaganathar Sami Kovil Street  
Trichy.

... Appellant

Vs.

1.M.Shankar  
S/o.Late.Murugesan  
No.25, NAWAB Thottam  
Woraiyur, Trichy.  
  
2.National Insurance Co. Ltd.,  
Divisional Office  
Bharathidasan Salai  
Contonment, Trichy  
having branch at Venkatesapuram  
Perambalur.

... Respondents

**Prayer:** Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award in Judgment and Decree dated 10.03.2022 made in MCOP.No.514 of 2018 on the file of the Motor Accident Claims Tribunal and Chief Judicial



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Magistrate, Perambalur.

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For Appellant : Mr.S.P.Yuvaraj

For Respondents : Ms.N.B.Surekha (for R2)

R1 - No appearance

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

The Appeal has been filed against the Judgment and Decree dated 10.03.2022 made in MCOP.No.514 of 2018 on the file of the Motor Accident Claims Tribunal and Chief Judicial Magistrate, Perambalur.

2.The claim Petitioner is the Appellant herein. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3.The claim Petitioner filed MCOP.No.514 of 2018, seeking compensation for the injuries sustained by him in a road traffic accident occurred on 28.11.2017. The Tribunal has awarded a sum of Rs.16,10,200/- with interest at the rate of 7.5% per annum. Aggrieved against the same and seeking enhancement, he has preferred this Appeal on the point of quantum.



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4. During the trial, on the side of the claim Petitioner, PW1 & PW2 were examined, Ex.P.1 to Ex.P.12 were marked and on the side of the Respondents RW1 was examined and Ex.R.1 to Ex.R.3 were marked and Ex.C1 Court document was also filed before the Tribunal.

5. Heard the learned counsel for the claim Petitioner and learned counsel for the Insurance Company on the point of quantum of compensation.

6. The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the 1<sup>st</sup> Respondent's vehicle, insured with the 2<sup>nd</sup> Respondent are not under challenge in this Appeal. Accordingly, the finding rendered by the trial Court that the accident taken place due to the rash and negligent driving of the driver of the 1<sup>st</sup> Respondent's vehicle, insured with the 2<sup>nd</sup> Respondent are hereby confirmed.

7. At the time of accident, the claim Petitioner was working as Mechanic, his employer has given authorisation letter under Ex.10 to PW2, who is the Manager, to give evidence on behalf of the company, through him Ex.P.8/salary certificate of the claim Petitioner was marked. Ex.P.8 indicated that the claim



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Petitioner has earned a sum of Rs.20,000/- at the time of the accident.

Therefore, this Court fixed the notional income at Rs.15,000/- per month and after adding 25% towards future prospects, the monthly income comes to Rs.18,750/- [Rs.15,000/- + Rs.3,750/-]. At the time of the accident, the claim Petitioner was aged about 44 years and right multiplier of "14" has been applied by the Tribunal, the same is hereby confirmed.

8.As per Ex.C1/disability certificate issued by the Medical Board, the disability sustained by the claim Petitioner is 60%. The Tribunal appears to have fixed it at 50%. On perusal of C1, it is seen that the claim Petitioner's right leg below knee was amputated and he could not attend the work as before the accident and therefore, the trial Court rightly followed the judgment of the Hon'ble Apex Court in the case of *Rajkumar Vs. Ajaykumar & another* reported in **2010 (2) TNMAC 581 SC** and adopted multiplier method, the same is also confirmed. Accordingly, the pecuniary loss sustained by the claim Petitioner is arrived as follows:

$$\text{Rs.18,750/-} \times 12 \times 14 \times 50\% = \text{Rs.15,75,000/-}$$

The compensation awarded by the Tribunal towards other heads are just and



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proper. Therefore, the same are hereby confirmed.

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| <i><b>S.No.</b></i> | <i><b>Heads</b></i> | <i><b>Amount (Rs.)</b></i> |
|---------------------|---------------------|----------------------------|
| 1                   | Pecuniary loss      | 1575000                    |
| 2                   | Transportation      | 10000                      |
| 3                   | Extra nourishment   | 25000                      |
| 4                   | Medical bills       | 189195                     |
| 5                   | Attender charge     | 25000                      |
| 6                   | Pain and sufferings | 50000                      |
| 7                   | Loss of amenities   | 50000                      |
| 8                   | Damage to cloth     | 1000                       |
|                     | Total               | 1925195                    |
|                     | Rounded off         | 1925200                    |

The interest awarded by the Tribunal at the rate of 7.5 % per annum is also hereby confirmed.

9. In total, the claim Petitioner is entitled to a sum of Rs.19,25,200/- (Rupees nineteen lakh twenty five thousand two hundred only).

10. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the award amount from Rs.16,10,200/- to Rs.19,25,200/- to the extent indicated above, with 7.5% interest per annum. No Costs.



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(ii) the Insurance Company is directed to deposit the enhanced award amount before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) on such deposit being made, the claim Petitioner/Appellant is permitted to withdraw the entire enhanced award amount with accrued interest and costs, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) the claim Petitioner/Appellant is directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

**10.02.2023**

Index : Yes/No  
Neutral citation : Yes/No  
Speaking Order/Non-Speaking Order

*sai*

To  
The Motor Accident Claims Tribunal



*C.M.A.No.2679 of 2022*

Chief Judicial Magistrate  
Perambalur.



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**RMT.TEEKAA RAMAN.J,**

*sai*

**Pre-delivery Judgment made in**

**C.M.A.No.2679 of 2022**

**Dated: 10.02.2023**