



C.M.A.No.4190 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2023

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.4190 of 2019

S.Selvam

...Appellant

Vs

1.Velu

2.T.Chitrarasu

3.National Insurance Co.Ltd.,
Branch Office No.1, Thanthai Periyar Complex,
Near Old Bus Stand, Salem 636 001.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation amount awarded in judgment and decree dated 11.10.2014 made in M.C.O.P.No.811 of 2012 on the file of the Motor Accident Claims Tribunal (Before the Special Sub Court No.1), Salem by allowing this Appeal.

For Appellant : Mr.S.Ramprabu
for Mr.S.P.Yuvaraj

For Respondents : Mr.J.Chandran for R3
No appearance for R1 and R2



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JUDGMENT

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This Civil Miscellaneous Appeal was filed to enhance the compensation amount awarded in judgment and decree dated 11.10.2014 made in M.C.O.P.No.811 of 2012 on the file of the Motor Accident Claims Tribunal (Before the Special Sub Court No.1), Salem.

2. The learned counsel appearing for the appellant would submit that the disability assessed by the Doctor was at 55%. However, the Tribunal had taken only 15% and fixed Rs.3,000/- per percentage as compensation and hence thereby awarded a sum of Rs.45,000/- under the head 'For Disability'. Further he would contend that since the Tribunal had awarded the compensation based on the percentage of disability, it should have taken the entire percentage of disability for awarding the said compensation. Hence, he requested this Court to enhance the compensation awarded by the Tribunal.

3. On the other hand, when this Court is inclined to apply multiplier, the learned counsel appearing for the insurance company would fairly submit that Rs.3,000/- per percentage may be fixed for the entire percentage of disability.



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4. Heard the learned counsel appearing for the appellant as well as the respondent and perused the materials available on record.

5. In view of the above, this Court is inclined to take the entire percentage of disability assessed by Doctor and fix a sum of Rs.3,000/- per percentage. Accordingly, the compensation is awarded for disability is enhanced to an extent of Rs.1,65,000/- (Rs.3000*55%). Further, this Court is not inclined to interfere with regard to all the other aspects of the award passed by the Tribunal.

6. Accordingly, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)
1.	Pain and suffering	30,000	30,000
2.	Loss of income during treatment	18,000	18,000
3.	Food and extra nourishment	5,000	5,000
4.	Medical Expenses	2,750	2,750



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S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)
5.	Transportation	1,250	1,250
6.	For loss of personal belongings	1,000	1,000
7.	For disability	45,000	1,65,000
	Total	1,03,000	2,23,000

7. In the result, Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal in M.C.O.P.No.811 of 2012 at Rs.1,03,000/- is hereby enhanced to Rs.2,23,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization. The appellant/claimant shall pay necessary Court fee, if any, on the enhanced compensation. The 3rd respondent/Insurance Company is directed to deposit the enhanced award amount along with interest and costs now determined by this Court, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the Tribunal is directed to transfer the respective share of the appellants/claimants by way of RTGS, within a period of two weeks from the deposit or from the date of receipt of the Bank details obtained for the claimant or application made by the appellants/claimants for withdrawal, whichever is later. No cost.



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Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order

nsa

To:

The Motor Accident Claims Tribunal,
Special Court No.I,
Salem.



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KRISHNAN RAMASAMY,J.

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