



C.M.A.No.1505 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2023

C O R A M

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

C.M.A.No.1505 of 2019

Palanisamy

...Appellant

Vs

1.R.Vadivelan

2.M.Balakrishnan

3.National Insurance Company Ltd.,
Divisional Office -7 (350700),
50 – Janpath, New Delhi – 110 001.

4.Maruthachalam

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 13.03.2017 made in M.C.O.P.No.179 of 2011 on the file of the Motor Accidents claims Tribunal, Sub-Court at Sathyamangalam, Erode District.



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For Appellant : Mr.Ma.P.Thangavel
For R1 : Exonerated before Tribunal
For R3 : Mr.S.Vadivel
R2 & R4 : No Appearance

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the judgment and decree dated 13.03.2017 made in M.C.O.P.No.179 of 2011 on the file of the Motor Accidents claims Tribunal, Sub-Court at Sathyamangalam, Erode District.

2.The appellant/claimant filed M.C.O.P.No.179 of 2011 on the file of the Motor Accidents claims Tribunal, Sub-Court at Sathyamangalam, Erode District claiming a sum of Rs.20,00,000/- as compensation for the injury sustained by him, in the accident that took place on 02.12.2010.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the 4th respondent and directed the 3rd respondent/Insurance Company to pay a sum of Rs.5,66,739/- along with interest at the rate of 7.5% as compensation to



the appellant/claimant and recover the same from the respondents 2 and 4,
under the following heads:

S.No	Description	Amount awarded by Tribunal (Rs)
1.	Permanent disability	2,26,800
2.	Loss of Income for 3 months	13,500
3.	Extra Nourishment	30,000
4.	Attendant Charges	30,000
5.	Pain and Sufferings	50,000
6.	Medical bills	2,16,439
	Total	5,66,739

4. Aggrieved over the award passed by the Tribunal, the appellants/claimants filed the present appeal challenging the quantum of compensation.

5. Learned counsel appearing for the appellant would submit that the accident was took place on 02.12.2010 due to which, the appellant suffered severe head injuries. The appellant was working as a mason and earning a sum of Rs.12,000/- per month before accident. He would further submit that the appellant is often getting fits due to head injury and the doctor has stated that it



cannot be cured and he has been taking treatment every month. P.W.3/Doctor also in his deposition stated that due to the head injury, there is blood leakage in the brain which would cause fits. The Tribunal has fixed a sum of Rs.4,500/- as notional income and awarded a compensation of Rs.2,26,800/- towards permanent disability, which is very meager. Therefore, he referred the judgment of the Hon'ble Supreme Court in the case of ***Syed Sadiq vs. Divisional Manager, United India Insurance*** reported in ***2014 1 TNMAC 459 (SC)***, and submitted that in the said case the Honb'le Supreme Court has awarded a sum of Rs.6,500/- for the vegetable vendor for the accident took place in the year 2008. In the present case, the accident occurred in the year 2010 and the injured was working as mason and earning a sum of Rs.12,000/- per month and he requested to fix a sum of Rs.10,000/- as notional income and award compensation by applying multiplier method.

6.Learned counsel appearing for the respondent would submit that a sum of Rs.4,500/- is just and fair to fix as a notional income of the appellant/claimant.



7. Heard the learned counsel appearing for the appellants as well as the 2nd respondent and perused the materials available on record.

8. Taking into consideration the submission made by the learned counsel appearing for either parties and considering the nature of avocation, nature of injuries, disabilities of the injured and the cost inflation index, this Court is inclined to fix the notional income of the deceased at Rs.8,000/-. Further, for the age of 41 years the multiplier applicable is 14 as held by the Hon'ble Supreme Court in the case of *Sarla Verma & others vs. Delhi Transport Corporation & another* reported in *2009 (2) TNMAC 1 SC*. As held by the Hon'ble Supreme Court in the case of *National Ins. Co. v. Pranay Sethi & others* reported in *2017(2)TNMAC 609 (SC)*, the future prospect for the age group of 41 years is 25%. As per Ex.P16/disability certificate issued by the Doctor, it appears that the appellant has sustained 30% disability. Hence, for the purpose of computing the compensation towards permanent disability, 30% disability is taken and the compensation towards permanent disability is re-determined as follows:

$$\text{Rs.8000/-} + 2000 (25\% \text{ of Rs.8000}) \times 12 \times 14 \times 30\% = \text{Rs.5,04,000/-}.$$



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9.The amount awarded by the Tribunal with regard to all other aspect are just and fair and hence it need not interfered. The compensation awarded by the Tribunal is re-determined as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)
1.	Permanent disability	2,26,800	5,04,000
2.	Loss of Income for 3 months	13,500	13,500
3.	Extra Nourishment	30,000	30,000
4.	Attendant Charges	30,000	30,000
5.	Pain and Sufferings	50,000	50,000
6.	Medical bills	2,16,439	2,16,439
	Total	5,66,739	8,43,939

10.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.5,66,739/- is hereby enhanced to Rs.8,43,939/- with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. The appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. The 3rd respondent/Insurance Company is directed to deposit the modified award



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amount along with interest and costs now determined by this Court, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment and recover the same from the respondents 2 and 4. The Tribunal is directed to transfer the award amount to the appellant/claimant by way of RTGS to their bank account directly, within a period of three weeks from the deposit being made or from the date of furnishing the RTGS particulars by the appellant/claimant, whichever is later. On such deposit, the appellant/claimant is permitted to withdraw the entire award amount along with interest. No costs.

10.07.2023

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To:

The Motor Accident Claims Tribunal,
Sub-Court at Sathyamangalam, Erode District.

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KRISHNAN RAMASAMY,J.

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