



C.M.A(MD)No.1535 of 2010

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **12.06.2023**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.1535 of 2010

Lakshmirajan @ Shanmugaraj

... Claimant/Appellant

Vs.

1.N.Kulusamy

2.M/s.National Insurance Company,
Through its Divisional Manager,
Door No.3-A, Northveli Street,
Madurai-1.

3.Tamil Nadu State Transport Corporation Ltd.,
Through its Managing Director, Karaikudi,
(Kumbakonam Division III).

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, against the decree and judgment, dated 10.02.2009 made in M.C.O.P.No.2169 of 2004 on the file of Motor Accident Claims Tribunal (Additional District Judge, Fast Track Court No.2, Madurai).

For Appellant : Mr.R.Govindaraj

For R2 : M/s.P.Malini



C.M.A(MD)No.1535 of 2010

JUDGMENT

WEB COPY

The present appeal has been filed by the claimant seeking enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Madurai in M.C.O.P.No.2169 of 2004.

2. According to the injured claimant, he was aged about 21 years and he was pursuing engineering course and he has suffered grievous injuries in view of the accident that took place on 27.06.2004. Hence, he prayed for compensation of Rs.3,00,000/-.

3. The insurance company had filed a counter challenging the manner of accident, negligence and the quantum of compensation.

4. The tribunal after considering the oral and documentary evidence, arrived at a finding that the accident has happened only due to the rash and negligent driving on the part of the driver of the lorry. The tribunal further found that as per the disability certificate, the claimant has sustained 37% of permanent disability. The tribunal has awarded a sum of Rs.50,000/- towards permanent disability. Though medical bills were produced to an extent of Rs.67,940/-, only a sum of Rs.16,000/- has

<https://www.mhc.tn.gov.in/judis> been awarded. The tribunal has further awarded a sum of Rs.20,000/-



C.M.A(MD)No.1535 of 2010

towards pain and suffering, a sum of Rs.5,000/- towards extra nourishment and a sum of Rs.50,000/- towards disability. Challenging the said award, the present appeal has been filed by the claimant.

5. According to the learned counsel appearing for the claimant, the claimant was a passenger in a bus and he got injured due to the rash and negligent driving on the part of the driver of the lorry which was coming from the opposite direction. The claimant had sustained 37% disability and the tribunal had just awarded a sum of Rs.50,000/- towards permanent disability. Hence, he prayed for enhancement under the said head. He had further contended that though medical bills were produced under Exhibit P.17, totalling a sum of Rs.67,940/-, the tribunal has erroneously awarded only a sum of Rs.16,000/-. Hence, he prayed for enhancement of the compensation under the conventional heads also.

6. Per contra, the learned counsel appearing for the respondent insurance company had contended that the tribunal has properly appreciated the oral and documentary evidence and fixed the compensation at Rs.91,000/- which does not call for any interference.



C.M.A(MD)No.1535 of 2010

WEB COPY

8. Admittedly, the claimant had sustained 37% disability. If a sum of Rs.2,000/- is awarded for each percentage, the award amount under the head of partial permanent disability would come at Rs.74,000/-. The claimant has produced the medical bills under Exhibit P.17 for a sum of Rs.67,940/-. However, the tribunal has just awarded a sum of Rs.16,000/- for reasons best known. Therefore, this Court is inclined to accept the entire medical bills. This Court is inclined to award a sum of Rs.5,000/- towards attender charges and a sum of Rs.5,000/- towards transport expenses.

9. In view of the above said deliberations, the award of the tribunal is hereby modified as follows:

Partial permanent disability 37x2000	: Rs.74,000/-
Pain and suffering	: Rs.20,000/-
Medical expenses	: Rs.67,940/-
Extra nourishment	: Rs. 5,000/-
Attender Charges	: Rs. 5,000/-
Transport expenses	: Rs. 5,000/-

Total	: Rs.1,76,940/-



C.M.A(MD)No.1535 of 2010

One Thousand only) is hereby enhanced to Rs.1,76,940/- (Rupees One Lakh Seventy Six Thousand Nine Hundred and Forty only). The award amount shall carry interest at the rate of 7.5% from the date of claim petition. The insurance company is directed to deposit the enhanced award amount within a period of eight (8) weeks from the date of receipt of a copy of this order.

11. The Civil Miscellaneous Appeal stands allowed to the extent as stated above. No costs.

12.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

gbg

To

1.The Motor Accident Claims Tribunal
(Additional District Judge, Fast Track Court No.2, Madurai).

2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A(MD)No.1535 of 2010

gbg

Judgment made in
C.M.A(MD)No.1535 of 2010

12.06.2023