



C.M.A.(MD).No.1934 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.1934 of 2013

Deepankumar

.....Appellant/Claimant

-VS-

1. Mahesh

2. Manikandan

3. The Reliance General Insurance Company Ltd.,
Tiruchirappalli Division,
Represented by its Branch Manager,
No.15-A, PLA Kanagu Towers II Floor,
Thillai Nagar 11th Cross, Tiruchirappalli,
Tiruchirappalli District.

4. Kesavaraj

.... Respondents/ Respondents

(Respondents 2 and 4 are given up since
they remained ex-parte before the Tribunal)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, as against the award and decree passed in M.C.O.P.No.463 of 2009, dated 29.08.2013, on the file of the Motor Accident Claims Tribunal/ Principal Subordinate Judge, Kumbakonam, Thanjavur District, wherein, a sum of 3,28,730/- was awarded by the Tribunal as against the claim of Rs.10,00,000/- by the appellant.



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For Appellant : Mr.A.Thiruvadikumar
For Respondents : Mr.C.Padmaraj – For R1
: Mr.V.Sakthivel – for R3
: R2 and R4 – given up

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the claimant seeking enhancement of compensation of the award made by the Motor Accident Claims Tribunal/Principal Subordinate Judge, Kumbakonam, Thanjavur District, in M.C.O.P.No.463 of 2009.

2. According to the injured claimant, who was a 24 years old Engineer, he sustained fracture on his Pelvic bone, back of neck and rectal injury in the accident which took place on 24.03.2008 at about 10.30. a.m. The Doctor has been examined as P.W.2, who has submitted that the injured claimant is suffering from incontinence of bowel and incontinence of urine and he has been fixed with clamb and as per Ex.P.22, the disability of the injured claimant has been assessed at 50%.

3. According to the learned counsel appearing for the appellant/claimant, when the claimant sustained such a grievous injury, the amount of compensation awarded under the head of permanent disability, sum of



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Rs.1,00,000/- (Rupees One Lakh only) is on the lower side. He had further contended that no amount has been awarded towards transport expenses, loss of martial prospectus, future medical expenses and loss of amenities. He further contended that for pain and sufferings and attender charges lesser amount has been awarded, considering the fact that the injured claimant was admitted as an inpatient for more than seven months in Vinodhahan Memorial Hospital, Thanjavur. Hence, he prayed for enhancement of compensation.

4. Per contra, the learned counsel appearing for the Insurance Company has contended that the Tribunal has accepted the disability of 50% and for each percentage of the disability, a sum of Rs.2,000/- (Rupees Two Thousand only) has been awarded. Medical Bills have been honored and accepted by the Tribunal in totality. Therefore, there is no scope for further enhancement of compensation.

5. I have carefully considered the submissions made by the learned counsel on either side.

6. A perusal of the Wound Certificate and the Disability Certificate which have been marked as Ex.P.16, Ex.P17 and Ex.P.22 would clearly



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indicate that the injured claimant had suffered fracture in the pelvic bone and it has caused incontinence of urine and incontinence of bowel. Therefore, it is clear that the claimant had suffered loss of martial prospectus, he would not be in a position to work for longer time. He was admitted in the Hospital as inpatient for more than seven months.

7. Considering the above said facts, the award of the Tribunal is modified as follows:

For partial permanent disability of 50% at the rate of Rs.3,000/- (Rupees Three Thousand only) for each percentage of disability, a sum of Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand only) is awarded. For pain and sufferings, a sum of Rs.50,000/- (Rupees Fifty Thousand only) is awarded. Towards attender charges, for a period of seven months, a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) is awarded. Towards extra nourishment, a sum of Rs.25,000/- (Rupees Twenty Five thousand only) is awarded. For loss of martial prospectus, a sum of Rs.2,00,000/- (Rupees Two Lakhs only) is awarded. Considering the nature of future medical expenses, a sum of Rs.1,00,000/- (Rupees One Lakh only) is awarded. Towards loss of amenities a sum of Rs.1,00,000/- (Rupees One Lakh only) is awarded and for the medical expenses, a sum of Rs.2,15,730/- (Rupees Two Lakhs Fifteen



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Thousand and Seven Hundred and Thirty only) is awarded. Accordingly, the compensation awarded by the Tribunal is enhanced from Rs.3,28,730/- (Rupees Three Lakhs Twenty Eight Thousand Seven Hundred and Thirty only) to Rs.8,65,730/- (Rupees Eight Lakhs Sixty Five Thousand Seven Hundred and Thirty only).

8. The Insurance Company is directed to pay a sum of Rs.8,65,730/- (Rupees Eight Lakhs Sixty Five Thousand Seven Hundred and Thirty only) as compensation and the enhanced award amount will carry interest at the rate of 7.5% per annum from the date of claim petition. The Insurance Company is directed to deposit the balance amount within a period of eight weeks from the date of receipt of a copy of this order. The claimant is directed to pay the deficit Court fee, if any, before this Court.

9. Accordingly, this Civil Miscellaneous Appeal stands allowed to the extent as stated above. There shall be no order as to costs.

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

1. The Motor Accident Claims Tribunal/
Principal Subordinate Judge,
Kumbakonam,
Thanjavur District.
2. The Reliance General Insurance Company Ltd.,
Tiruchirappalli Division,
Represented by its Branch Manager,
No.15-A, PLA Kanagu Towers II Floor,
Thillai Nagar 11th Cross, Tiruchirappalli,
Tiruchirappalli District.
3. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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