

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **31.03.2023**

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A(MD)No.1044 of 2022

P.Arunachalam

:Appellant/Claimant

.VS.

1.R.Muthupandiammal

2.M/s.United India Insurance Co., Ltd.,
Rep. through the Divisional manager,
No.1, Divisional Office,
7-A, West Veli Street,
Madurai District.

:Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree passed in M.C.O.P.No.553/2015, dated 19.03.2019, on the file of the Motor Accident Claims Tribunal-cum-Special Subordinate Judge (MCOP Cases), Madurai.

For Appellant

:Mr.R.Rajamani

For R1

:Mr.Arjun

for Mr.N.Vallinayagam

For R2

:Mr.I.Robert Chandrakumar

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant-claimant against the award, dated 19.03.2019, made in M.C.O.P.No.553 of 2015, passed by the Motor Accident Claims Tribunal-cum-Special Subordinate Judge (MCOP Cases), Madurai.

2.The appellant/claimant filed a claim petition in M.C.O.P.No.553 of 2015, before the Motor Accident Claims Tribunal-cum-Special Subordinate Judge (MCOP Cases), Madurai, claiming a sum of Rs.1 crore and 10 lakhs as compensation for the injuries sustained by him in the accident that had occurred on 16.11.2013. The appellant was aged about 56 years. On 16.11.2013 at about 11.50 hours the appellant while riding the two-wheeler bearing Registration No.TN-59-AU-3458, the car belonging to the first respondent bearing Registration No.TN-59-AP-3699 dashed against the two-wheeler. In the impact, the appellant sustained head injury.

3. Before the Tribunal, on the side of the claimant, P.Ws.1 to 4 were examined and Exs.P1 to P26 were marked. On the side of the

respondents Ex.R1 was marked. C.W.1 was examined and Ex.C1 & C 2 were marked.

4.The Tribunal, considering the pleadings, oral and documentary evidence, the injury sustained by the appellant has awarded a total sum of Rs.28,72,000/- as compensation.

5.Not being satisfied with the quantum of compensation, the appellant has filed the present Civil Miscellaneous Appeal.

6. The tribunal has taken note of the nature of the injuries, adopted multiplier method and awarded compensation as follows:

S. No	Description	Amount awarded by Tribunal (Rs)
1.	For loss of income	5,94,000
2.	For pain and suffering	80,000
3.	For Nutritious	20,000
4.	For attendant charges during treatment period	70,000
5.	For Cloths	2,000
6.	For Transportation	3,000
7.	For medical expenses	21,03,000
8.	Total	28,72,000

7. The only contention of the learned counsel appearing for the appellant is that the Tribunal has not awarded any amount for future medical expenses. Besides, transport charges also not properly awarded by the Tribunal.

8. The learned counsel appearing for the respondents would submit that the Tribunal has calculated the multiplier method and awarded the compensation, hence, it does not require any interference.

9. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondents and perused the materials placed before this Court.

10. The nature of the injury sustained by the appellant is not in dispute. In fact, the appellant sustained head injury and he had taken the treatment in the hospital for several days. Ex.P.8 to Ex.P16, Ex.P21 and Ex.P27 clearly proves that from 6.11.2013 to 12.04.2014 the appellant has taken treatment as Inpatient. The tribunal disbelieving the Ex.C1, however, has fixed the disability as 25% and also fixed 50% disability towards future earning capacity and applied the multiplier method.

11. Though before the tribunal, the claimant argued that 100% disability has to be taken, the tribunal after considering the evidence, has restricted the disability to 50%. In fact, it was reasonable, in the appeal also the learned counsel for the appellant has not seriously canvassed this point. The disability fixed by the Tribunal does not require any interference. Further, the Tribunal has applied the multiplier of 9 and fixed the notional income at Rs.1,20,000/- and also as per the judgment of the Pranay Sethi, the tribunal has awarded 10% for future earning capacity and fixed the notional income at Rs.1,32,000/-.

12. This Court is of the view that for the nature of injuries amount awarded by the tribunal is well reasonable and does not require any interference. However, the tribunal has awarded only Rs.20,000/- for extra nourishment and it is very low and hence, this amount is enhanced to Rs.40,000/-. The transport charges also awarded by the tribunal Rs. 3,000/- which is enhanced to Rs.20,000/-. This court awarded a sum of Rs.91,000/- towards future medical expenses. In all other heads, the award of the tribunal is confirmed.

13. In the result,

(i) This Civil Miscellaneous Appeal is allowed, enhancing the award of the Tribunal from Rs.28,72,000/- (Rupees Twentyeight lakhs seventytwo thousand only) to a sum of **Rs.30,00,000/-** (Rupees Thirty lakhs only) along with interest at the rate of 7.5% per annum from the date of petition till date of deposit and proportionate costs.

(ii) The second respondent is directed to deposit the award amount, less the amount already deposited, if any, along with accrued interest and costs to the credit of M.C.O.P.No.553 of 2015, on the file of the Motor Accident Claims Tribunal-cum-Special Subordinate Judge (MCOP Cases), Madurai, within a period of **eight weeks** from the date of receipt of copy of this judgment;

(iii) The appellant-claimant is directed to pay the additional Court Fees, if any, within a period of **two weeks** from the date of receipt of a copy of this judgment;

(iv) On such deposit being made, the appellant/claimant is permitted to withdraw the award amount by making necessary application before the Tribunal. No costs.

31.03.2023

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

1. The Motor Accident Claims Tribunal-cum-Special Subordinate Judge
(MCOP Cases), Madurai.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

N.SATHISH KUMAR.,J.

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JUDGMENT MADE IN
C.M.A(MD)No.1044 of 2022

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