



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 04.10.2023

CORAM:

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
AND
THE HONOURABLE MR.JUSTICE P.B.BALAJI**

**C.M.A(MD)No.372 of 2019
and C.M.P(MD).Nos.4551 of 2019 and 12764 of 2023**

New India Assurance Company,
Kamarajar Road,
Madurai Nagar,
Madurai District.
Rep.by its Deputy Manager.

... Appellant

.VS.

1.Ayyadurai

2.Ravichandran

3.New India Assurance Company,
Mugapair Micro Office,
11, Ground Floor,
Ambatur Estate Main Road,
Mugapair,
Chennai District-37.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and judgment passed in M.C.O.P.No.1 of 2016 dated 12.10.2018 on the file of the Motor Accident Claims Tribunal cum Subordinate Court, Devakottai.



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For Appellant : Mr.M.S.Suresh Kumar

For Respondents : Mr.V.Sankarapandian
for R1
No-appearance for R2 and R3

JUDGMENT

(Judgment of the Court was made by **RMT.TEEKAA RAMAN, J.**)

The appellant is the New India Assurance Company, who is the third respondent before the Tribunal.

2. Challenging the award passed in M.C.O.P.No.1 of 2016 dated 12.10.2018, the Insurance Company has preferred this appeal on the point of quantum of compensation and liability.

3. The first respondent/claimant who had sustained injury in the road accident on 24.08.2015, has preferred M.C.O.P.No.1 of 2016 before the Tribunal for the injuries sustained by him.

4. Before the Tribunal, on the side of the claimant, P.W.1 to P.W.6 were examined and Ex.P1 to Ex.P23 were marked and on the side of the respondents therein, no evidence has been adduced in both oral and



documentary.

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5. Based on the evidence of P.W.1/injured along with P.W.2 to P.W.5, the Tribunal has rightly come to the conclusion that the accident had taken place due to rash and negligent driving of the offending vehicle of the first respondent therein which is insured with the respondents 2 and 3 therein and accordingly, the said fact is hereby confirmed.

6. On the point of quantum of compensation, both the parties were heard. The learned counsel appearing for the respondents relied upon Ex.P6, Ex.P10 and Ex.P21. P.W.2, namely, Dr.Saleem Ibrahim and P.W.6, namely, Dr.Devakumar have been examined regarding the injuries sustained by the claimant. Ex.P10, Ex.P11 and Ex.P12 are discharge summaries issued by the different hospitals where the injured had taken treatment. The claimant sustained fracture in his right hip with sciatic nerve palsy. Ex.P.2 and Ex.P.3 clearly disclosed the dislocation of right hip of the petitioner due to fracture. As per Ex.P2 and Ex.P10, there was fracture dislocation of right hip with sciatic nerve palsy sprain right knee. Ex.P8 and Ex.P9 also clearly disclosed the inability of the petitioner to do his agricultural work. As per Ex.P.10, the petitioner took treatment



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from 24.08.2015 to 03.09.2015 and as per Ex.P11, the petitioner took treatment as inpatient from 03.09.2015 to 20.09.2015 at Madurai. Again, the petitioner took treatment as inpatient from 31.08.2016 to 12.09.2016 at Coimbatore. Therefore, Ex.P10, Ex.P11, Ex.P12, Ex.P18 and Ex.P19 disclosed the condition of the petitioner. On consideration of the injuries sustained by the claim petitioner as stated supra, following the judgment of the Hon'ble Supreme Court of India in the case of ***Rajkumar vs. Ajaykumar reported in 2011 (1) MLJ 779***, the Tribunal has rightly adopted the mutlipler method. Since the petitioner has sustained permanent disability of earning capacity, the monthly income is fixed at Rs.30,000/-. After perusing the records, we are of the considered view that a sum of Rs.20,000/- can be fixed which will meet the ends of justice. With regard to awarding of medical expenses, pain and sufferings, extra nourishment and travel expenses as granted by the Tribunal, the same are hereby confirmed. Therefore, we have no hesitation to come to the conclusion that the mulitipler method adopted by the Tribunal following the judgment of ***Rajkumar's*** case as stated supra, is justified. However, the quantum of monthly income fixed by the Tribunal is reduced from Rs.30,000/- to Rs.20,000/-, whereas, the permanent disability fixed by the Tribunal as 40% is hereby justified.



Accordingly, the permanent disability would come to Rs.14,40,000/- (Rs.20,000/- X 12 X 15 X 40%). The Tribunal has not awarded any compensation under the head of loss of amenities and therefore, the appellant/claimant is entitled to a sum of Rs.15,000/- for the same.

7. Accordingly, the award of the Tribunal in M.C.O.P.No. 1 of 2016 is modified as follows:

<i>Sl. No.</i>	<i>Particulars</i>	<i>Amount granted by the Tribunal</i>	<i>Amount granted by this Court</i>
1	Permanent disability	Rs.21,60,000/-	Rs.14,40,000/-
2.	Medical Expenses	Rs.4,63,431/-	Rs.4,63,431/-
3.	Pain and sufferings	Rs.15,000 /-	Rs.15,000 /-
4.	Extra Nourishment	Rs.10,000/-	Rs.10,000/-
5.	Loss of amenities	NIL	Rs.15,000/-
6.	Travel Expenses	Rs.31,050/-	Rs.31,050/-
	Total	Rs.26,79,481/-	Rs.19,74,481/-

The compensation awarded by the Tribunal is reduced from Rs.26,79,481/- to Rs.19,74,481/- which shall carry interest at the rate of 7.5% per interest.



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8. In the result,

(i) The Civil Miscellaneous Appeal is allowed in part. No costs.

(ii) The quantum of compensation awarded by the Tribunal is reduced from Rs.26,79,481/- to Rs.19,74,481/-.

(iii) The appellant and the third respondent herein are directed to deposit the entire compensation of Rs.19,74,481/- (if not already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No. 1 of 2016, dated 12.10.2018, on the file of the Motor Accident Claims Tribunal cum Subordinate Court, Devakottai, within a period of six weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the first respondent/claimant is permitted to withdraw the entire amount after following the due process of law. Connected miscellaneous petitions are closed.

(T.K.R.,J) (P.B.B.,J)

04.10.2023

Index: Yes/No
Internet: Yes/No
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1. Motor Accident Claims Tribunal cum Subordinate Court, Devakottai.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



RMT.TEEKAA RAMAN.,J.

AND

P.B.BALAJI,J

ssb

JUDGMENT MADE IN

C.M.A(MD)No.372 of 2019

04.10.2023