



C.M.A(MD)No.743 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.12.2023

CORAM:

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

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N.Chelladurai

...Appellant/Respondent

.VS.

1.S.P.Mani @ Mohan Diary

2.S.B.I.General Insurance

Represented by its Manager

“Natraj” 101, 201, 301 Junction of Western Express Highway

Andheri Easi

Andheri Karla Road,

Mumbai.

3.S.B.I.General Insurance Company

Represented by its Manager,

Thousand Lights West,

64, Ground Floor,

Greens Road,

Chennai,

Chennai District.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to allow the appeal and modify the award passed in M.C.O.P.No.92 of 2016, on the file of the Motor Accident Claims Tribunal / Sub-Court, Devakottai, dated 27.02.2020.



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For Appellant	:Mr.N.Sudhagar Nagaraj
For R1	:No appearance
For R3	:Mr.S.Gokul Raj

JUDGMENT

[Judgment of the Court was made by **RMT.TEEKAA RAMAN.,J.**]

The claimant is the appellant herein. The appeal is filed by the appellant for enhancement of compensation awarded by the Tribunal in M.C.O.P.No.92 of 2016.

2. The factum of the accident, manner of the accident, rash and negligent driving on the part of the offending vehicle and the said offending vehicle being insured with the Insurance Company are not in dispute and hence, the same are hereby confirmed.

3. On the point of quantum of compensation both parties heard.

4. The claimant / appellant is working as Diesel Engine Mechanic in the Department of the Southern Railway. As per the service records,



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he is aged about 39 years at the time of accident. As per the wound certificate Ex.P23 he said to have suffered 56% of disability. It is seen from the records Exs.P16, P19, P20, P22 & P23 that he has underwent two major surgeries and plates have been fixed. As per Ex.P21 the medical bills, the claimant has spent the medical expenses to the tune of Rs.5,09,400/-.

5. After taking into consideration the oral evidence of P.W.3- Doctor through whom medical certificates and wound certificates have been marked, the Tribunal has rightly come to the conclusion that the petitioner has suffered disability to an extend of 56%. In the year 2016, Rs.3,000/- per each percentage of disability has been fixed and hence, the Tribunal has fixed a sum of Rs.3,000/- per each percentage of disability and awarded a sum of Rs.1,68,000/- for 56% of disability. Therefore, the same is not required any interference and hence, the said amount is confirmed.

6. As per the evidence of P.W.1 in the cross-examination coupled with the certificate produced Ex.P17, Ex.P24 and Ex.P25, he is working in the very same department and hence, there is no loss of earning



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capacity. Therefore, the Tribunal has rightly reject the plea of functional disability.

7. With regard to pain and suffering the claimant sustained grievous injuries and underwent two surgeries, this Court is inclined the increase the amount for pain and suffering. Accordingly, the amount is reduced from Rs.40,000/- to Rs.60,000/-.

8. With regard to the attendance charges, he was taking treatment for 30 days and hence, this amount is increased from Rs.30,000/- to Rs.50,000/-. The Tribunal has not awarded any amount for loss of amenities and therefore, we inclined to grant a sum of Rs.20,000/- for loss of amenities.

9. In all other heads, we find that the compensation awarded by the Tribunal is just and fair, which is not required any interference accordingly, the same is confirmed.

10. Accordingly, the Civil Miscellaneous Appeal is partly allowed.



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11.The award of the Tribunal is modified as follows:

S. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or modified or enhanced or granted
1.	Loss of permanent disability	Rs.1,68,000	Rs.1,68,000	confirmed
2.	For Medical expenses	Rs.5,09,400	Rs.5,09,400	confirmed
3.	For pain and suffering	Rs.40,000	Rs.60,000	enhanced
4.	For Transportation	Rs.25,000	Rs.25,000	confirmed
5.	For Nutrision	Rs.25,000	Rs.25,000	Confirmed
6.	For attendant charges	Rs.30,000	Rs.50,000	enhanced
7.	Loss amenities	-	Rs.20,000	awarded
	Total	Rs.7,97,400	Rs.8,57,400	enhanced by Rs.60,000

12.The Civil Miscellaneous Appeal is partly allowed enhancing the compensation from Rs.7,97,400/-to Rs.8,57,400/- with interest at the rate of 7.5% p.a.from the date of claim petition till the date of realization. The respondents 2 & 3 is directed to deposit enhanced award amount within a period of eight (8) weeks from the date of receipt of a copy of this order. On such deposit, the claimant is entitled to withdraw the



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award amount along with proportionate accrued interest and cost, less the amount already withdrawn, if any, by filing necessary application before the tribunal. No costs.

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

[T.K.R.,J.] [P.B.B.,J.]
12.12.2023

To

The Motor Accident Claims Tribunal,
Sub-Court, Devakottai.



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RMT.TEEKAA RAMAN,J.
AND
P.B.BALAJI,J.

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JUDGMENT MADE IN
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