



C.M.A.(MD).No.599 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.599 of 2018

Balasubramanian

..... Appellant/ Petitioner

-VS-

1. Krishnasamy

2. Shri Ram General Insurance Company Ltd.,
Through its Branch Manager,
E-8, RIICO,
Industrial Area,
Sitapura, Jaipur,
Rajasthan – 302 022.

... Respondents / Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, made in M.C.O.P.No. 462 of 2014 on the file of the Motor Accident Claims Tribunal, (Special Sub-Court), Tirunelveli, dated 10.06.2015.

For Appellant : Mr.T.Selvakumaran

For Respondents : No appearance – for R1

: Mr.D.Sivaraman – For R2



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J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the injured claimant seeking enhancement of compensation arising out of an award passed by the Motor Accidents Claims Tribunal, Special Sub-Court, Tirunelveli, in M.C.O.P.No.462 of 2014.

2. The injured claimant, who is a Grade -II Constable sustained 85% disability in the accident. The Tribunal has taken 85% as disability in the accident. As per the Ex.P.18- Disability Certificate issued by the Orthopedic Surgeon, the claimant has sustained a total permanent disability of 80%. The Disability Certificate further pointed out that his right leg has been amputated from right knee.

3. The Tribunal has fixed the compensation for permanent disability at a lump-sum of Rs.6,00,000/- (Rupees Six Lakhs only). Challenging the said portion of the award, the present appeal has been filed by the claimant.



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4. According to the claimant, the claimant was a Grade-II Constable and he has lost his promotional opportunity and the Tribunal has not considered the future prospects of the claimant. He further contended that for the past 10 years, the claimant/head constable has not been promoted to the higher post.

5. He further contended that no amount was awarded under the head of loss of amenities, especially, when the right leg below the knee was amputated. Hence, he prayed for enhancement of compensation.

6. The learned counsel appearing for the Insurance Company had contended that in view of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995, the petitioner cannot be removed from service or any other benefits cannot be refused on the ground of disability. The claimant, being a Government servant, is entitled to all the protection of the said Act, and therefore, there would not be any loss of income during his employment period. Therefore, he further contended that the lump-sum amount paid at the rate of Rs.6,00,000/- (Rupees Six Lakhs only) is sustainable and cannot be enhanced. However, the learned counsel



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appearing for the claimant had contended that after retirement, the Police Officers are always engaged in the security services after that retirement and he prayed for considering the future also and enhance the amount.

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

8. The Hon'ble Division Bench of this Court in the judgment reported in **2021 (1)TNMAC -32 (Managing Director, Tamil Nadu Transport Corporation Vs. Ponnusami)** considering 80% functional disability and the post of the claimant as Conductor was pleased to award a sum of Rs.12,00,000/- (Rupees Twelve Lakhs only) as lump-sum payment towards permanent disability. In the present case, considering the fact that, the injured claimant is a Head Constable and accident had taken place in the year 2013, this Court is of the view that a lump sum amount of Rs.10,00,000/- (Rupees Ten Lakhs only) could be paid under the head of permanent disability, considering the fact that the petitioner has incurred the 80% disability including amputation of the right leg.



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9. The Tribunal has not considered the prayer for compensation under the head of loss of amenities. Considering the fact that the petitioner has lost his right leg, the injured suffers from loss of amenities and the said loss would be quantified to a sum of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand only).

10. Considering the fact that the injured claimant is entitled to the benefits under the Central Act 1 of 1996, no amount would be awarded under the head of loss of income.

11. In view of the above said deliberations, the award amount is modified to the following effect:

For permanent disability instead of 6,00,000/- (Rupees Six Lakhs only) a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) is awarded. Apart from that a sum Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand only) is awarded under the head for loss of amenities. The amount awarded under other heads are hereby confirmed. Therefore, total compensation amount of Rs.10,95,000/- (Rupees Ten Lakhs and Ninety Five Thousand only) is hereby enhanced to Rs.16,45,000/- (Rupees Sixteen Lakhs and Forty Five Thousand



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only) the enhanced award amount will carry interest at the rate of 7.5% per annum from the date of the claim petition. The Insurance Company is directed to deposit the enhanced award amount together with interest within a period of eight weeks from the date of receipt of a copy of this order.

12. The Civil Miscellaneous Appeal stands allowed to the extent as stated above. There shall be no order as to costs.

27.03.2023

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

1. The Motor Accident Claims Tribunal,
(Special Sub-Court), Tirunelveli,
2. Shri Ram General Insurance Company Ltd.,
Through its Branch Manager,
E-8, RIICO, Industrial Area,
Sitapura, Jaipur,
Rajasthan – 302 022.
3. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

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R.VIJAYAKUMAR,J.

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