



C.M.A(MD)No.209 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.10.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A(MD)No.209 of 2017

L.Prabu,

... Appellant/Claimant

Vs

1. Palanivel

2. The Branch Manager,
New India Assurance Co. Ltd.,
No.3, Main Road, Dindigul-2..

... Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, praying this Court to allow the present appeal and enhance the award amount in M.C.O.P.No.82 of 2008 on the file of Motor Accident Claims Tribunal, Subordinate Court, Palani, dated 15.12.2016.

For Appellant : Mr.R.Thangapandian

For Respondents : Mr.D.Venkatesh (R1)
Mr.M.S.Suresh Kumar (R2)



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JUDGMENT

This Civil Miscellaneous Appeal has been filed to enhance the award amount in M.C.O.P.No.82 of 2008 on the file of Motor Accident Claims Tribunal, Subordinate Court, Palani, dated 15.12.2016.

2.The appellant met with an accident, while he was travelling in a Transport Corporation Bus bearing registration No.TN 49 N 1634. At that time the petitioner was undergoing final year MCA Degree. The bus, in which he was travelling colluded with a lorry and he sustained 56% permanent disability and underwent three surgeries and prolonged hospitalization, for which, the learned Tribunal has passed an award amount of Rs.7,13,424/- against a claim of Rs.20 lakhs. However, in this appeal, the appellant has limited his claim to Rs.10 lakhs.

3.The appellant has sustained grievous injuries, resulting which, he sustained 56% permanent disability, for which, multiplier of Rs.2,000/ per percentage has been applied by the Tribunal and arrived at an amount of Rs. 1,18,000/- towards disability. The learned counsel appearing for the second



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respondent drew my attention that the aforesaid amount has been wrongly calculated for 59% instead of 56%.

4.In view of the order passed by this Court in C.M.A(MD)No.1304 and 1305 of 2014, reported in **2022(1) TNMAC 182**, wherein, this Court has passed an order of enhancing Rs.3,000/- per percentage for permanent disability, following which, I am inclined to enhance the compensation for 56% permanent disability from Rs.2,000/- per percentage to Rs.3,000/- per percentage and on calculating the same for 56% of permanent disability @ Rs. 3,000/-, the amount would come to Rs.1,68,000/-.

5.It is brought to the notice of this Court by the learned counsel for the appellant that the Tribunal has not awarded any compensation towards Attendant Charges. The Tribunal ought to have awarded compensation for Attendant charges, on considering the period of hospitalization. Therefore, an amount of Rs.30,000/- is hereby awarded towards the Attendant Charges.

6.With respect to medical expenses, an amount of Rs.4,85,424/- has been awarded. The learned counsel for the second respondent vehemently



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contended that the same is exorbitant for the reason that several medical bills observed by the Tribunal are duplicate of entry. However, perusal of the order would reveal that the same has been appropriately calculated and the double entry to the tune of Rs.2,28,671/- has been duly deducted and finally medical expenditure has been awarded to the tune of Rs.4,85,424/- by the Tribunal. Therefore, the same need not be interfered with.

7.As far as the future medical expenses are concerned, Tribunal has not fixed any amount. Hence, I am inclined to fix Rs.20,000/- towards the future medical expenses.

8.As far as the pain and sufferings is concerned, compensation amount of Rs.45,000/- has been awarded by the Tribunal. I am of the considered opinion that the above said compensation need not be interfered with.

9.As far as nourishment is concerned, a fair compensation of Rs. 15,000/- has been fixed by the Tribunal and the same need not be interfered with by this Court.



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10. In respect of Transport expenses, I am of the considered opinion that an amount of Rs.50,000/- has been fixed by the Tribunal and I am of the considered opinion that it need not be interfered with.

11. Hence, the appellant/claimant is entitled to get total compensation of Rs.8,13,424/- and the compensation awarded by the Tribunal is modified as follows:-

S. No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced
1.	Permanent Disability	1,18,000/-	1,68,000/-	Enhanced
2.	Pain and suffering	45,000/-	45,000/-	Confirmed
3.	Nourishment	15,000/-	15,000/-	Confirmed
4.	Transportation	50,000/-	50,000/-	Confirmed
5.	Medical expenses	4,85,424/-	4,85,424/-	Confirmed
6.	Attendant charges	Nil	30,000	Granted
7.	Future Medical expenses	Nil	20,000	Granted
	Total	7,13,424/-	8,13,424/-	Enhanced by Rs.1,00,000/-



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12. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal is hereby enhanced to Rs. 8,13,424/- (Rupees Eight Lakhs Thirteen Thousand Four Hundred and Twenty Four only) from Rs.7,13,424/-. The second respondent is directed to deposit the modified enhanced amount with interest at 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.82 of 2018 on the file of Motor Accident Claims Tribunal/Subordinate Court, Palani, after deducting the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the appellant/claimant is permitted to withdraw the award amount with interest and costs, less the amount already withdrawn, if any, on due application before the Tribunal. The appellant is directed to pay the court fee for the enhanced compensation, if any, and the Registry is directed to draft the decree only after the payment of Court fee. No costs.

17.10.2023

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



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L.VICTORIA GOWRI, J.

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