



C.M.A. (MD) No. 897 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 12.09.2023

Pronounced on : 22.09.2023

CORAM:

THE HON'BLE MR.JUSTICE **K.MURALI SHANKAR**

C.M.A.(MD)No.897 of 2019

Sathyananarayanamoorthy

... Appellant/
Petitioner

Vs.

1. Sekar

2. The Branch Manager,
National Insurance Company Limited,
Branch H, 92,,
Devipuram Road,
Thoothukudi Town,
Thoothukudi District.

... Respondents/
Respondents

Prayer : This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to allow the appeal and enhance the compensation in the award in M.C.O.P.No.623 of 2017 on the file of the Motor Accident Claims Tribunal (Special Sub Court), Dindigul dated 16.04.2018.

For Appellant : Mr.C.K.Appaji

For R1 : No appearance

For R2 : M/s.P.Malini



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JUDGMENT

The Civil Miscellaneous Appeal is directed against the award passed in M.C.O.P.No.623 of 2017 dated 16.04.2018 on the file of the Motor Accident Claims Tribunal/Special Subordinate Court, Dindigul.

2. The appellant/claimant, who was awarded with compensation of Rs.2,36,000/- (Rupees Two Lakhs and Thirty Six Thousand only) with interest at 7.5% per annum for the disability suffered by him, consequent to an accident occurred on 10.10.2014, challenged the quantum of compensation awarded at, by the Tribunal and claimed enhancement of the same.

3. It is evident from the records that the appellant/claimant, after the accident, was admitted in Meenakshi Mission Hospital, Madurai on 10.10.2014 and was discharged on 13.10.2014, that again he was admitted in the same hospital on 19.10.2014 and was discharged on 25.10.2014. It is further evident that the appellant/claimant has suffered 8 types of injuries and the same were certified as grievous injuries.



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4. The appellant/claimant has examined the medical officer Thiru.T.Thirumalaisamy as P.W.2, who had issued the disability certificate under Ex.P.5. Admittedly, P.W.2 has not treated the appellant/claimant. Subsequently, the appellant/claimant was referred to the Medical Board attached to the Government Rajaji Hospital, Madurai and after examining him, the Medical Board has issued the certificate fixing the disability at 24%. Admittedly, the appellant/claimant has not produced any evidence to show that he has suffered permanent disability nor functional disability. Considering the above, the Tribunal has rightly applied the percentage method and awarded Rs.3,000/- per percentage and granted sum of Rs.72,000/- towards partial permanent disability. Admittedly, the accident was occurred on 10.10.2014. Considering the nature of injuries suffered and taking note of the disability sustained, this Court is inclined to grant Rs.4,000/- per percentage and as such, the appellant/claimant is entitled to get Rs.96,000/- towards disability.

5. The Tribunal, taking note of the medical bills, has rightly granted Rs.80,000/- towards medical expenses.



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6. Though the appellant/claimant has alleged that he was doing cattle business in selling the cows and was getting Rs.15,000/- per month, he has not produced any evidence to substantiate the same. The Tribunal has rightly fixed the monthly income at Rs.6,000/- and granted loss of income for 3 months at Rs.18,000/-. Considering the nature of injuries and also the inpatient treatment, this Court is inclined to grant loss of income for 4 months and the same would come to Rs.24,000/-.

7. The Tribunal has also granted Rs.50,000/- for pain and suffering, Rs.5,000/- for loss of convenience, Rs.10,000/- for extra nourishment and Rs.1,000/- for attendant charges. Considering the nature of the injuries, inpatient treatment and the consequent disability sustained and other attending circumstances, this Court is inclined to grant Rs.25,000/- for loss of convenience, Rs.20,000/- for extra nourishment, Rs.10,000/- for attendant charges and Rs.10,000/- for transport expenses. Awarding Rs.50,000/- towards pain and suffering is reasonable and hence, this Court is not inclined to interfere with the same. Hence, the appellant/ claimant is entitled to get total compensation of Rs.3,15,000/- and the compensation awarded by the Tribunal is modified as follows:-



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S. No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced
1.	Pain and suffering	50,000	50,000	Confirmed
2.	Loss of convenience	5,000	25,000	Enhanced
3.	Disability	72,000	96,000	Enhanced
4.	Medical expenses	80,000	80,000	Confirmed
5.	Extra nourishment	10,000	20,000	Enhanced
6.	Loss of income	18,000	24,000	Enhanced
7.	Attendant charges	1,000	10,000	Enhanced
8.	Transport expenses	Nil	10,000	Granted
	Total	2,36,000	3,15,000	Enhanced by Rs.79,000/-

8. Considering the other facts and circumstances, this Court further decides that the parties are to be directed to bear their own costs.

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.2,36,000/- (Rupees Two Lakhs and Thirty Six Thousand only) is hereby enhanced to **Rs.3,15,000/- (Rupees Three Lakhs and Fifteen Thousand only)**. The



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respondents are directed to deposit the modified enhanced amount with interest at 7.5% per annum from the date of petition till the date of realization jointly and severally to the credit of M.C.O.P.No.466 of 2018 on the file of Motor Accident Claims Tribunal/Special Subordinate Court, Dindigul, after deducting the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant/claimant is permitted to withdraw the award amount with interest and costs, less amount already withdrawn, if any, on due application before the Tribunal. Parties are directed to bear their own costs. The appellant/claimant 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.

22.09.2023

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

1. The Motor Accident Claims Tribunal/
Special Subordinate Court, Dindigul.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

csn

Pre-Delivery Order made in
C.M.A.(MD)No.897 of 2019

Dated : 22.09.2023