



C.M.A.(MD)No.319 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.04.2023

CORAM:

**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

C.M.A.(MD)No.319 of 2023

Durai

...Appellant / Petitioner

Vs.

1.Shanmugam

2.The New India Assurance Company Limited,  
Through its Branch Manager,  
Catholic Centre, No.913, Main Road,  
Kovilpatti.

3.Malayalam

4.United India Insurance Company Limited,  
Through its Divisional Manager,  
No.14, Whites Road,  
Sudarson Building II Floor, Chennai.

... Respondents / Respondents

**PRAYER:** This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award amount in M.C.O.P.No.82 of 2013 on the file of the Motor Accident Claims Tribunal, (Special Sub Court), Tirunelveli, dated 27.04.2015.

For Appellant : Mr.T.Selvakumaran

For R1 & R3 : No Appearance

For R2 : Mr.R.Ramadurai

For R4 : Mr.I.Robert Chandrakumar



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## **JUDGMENT**

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The present Civil Miscellaneous Appeal is filed, seeking enhancement of the award passed by the Motor Accident Claims Tribunal (Special Sub Court), Tirunelveli in M.C.O.P.No.82 of 2013, dated 27.04.2015.

2.For the sake of convenience, the parties are referred to herein as per their rank before the trial Court.

3.The brief facts leading to the filing of the Civil Miscellaneous Appeal are as follows:

The claimant while driving the bus bearing Registration No.TN-73-B-7200 belonging to the 3<sup>rd</sup> respondent from Chennai to Tirunelveli and at 07.00 p.m., on 26.01.2023, tried to overtake a lorry bearing Registration No.TN 67-Z-9444 proceeding in front of the bus, near Thulukkapatti Bridge at Virudhunagar-Sattur road and due to exploding of tire, the bus came to the right side suddenly. Therefore, in order to avoid the accident, the claimant turned the bus to the left side. However, the bus hit the lorry and as a result, the petitioner sustained injuries. At the time of accident, he was earning a sum of R.25,000/- per month and due to permanent disability, he is not able to work as earlier. Therefore,



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claiming a sum of Rs.10,00,000/- (Rupees Ten Lakhs Only) as compensation, the claimant filed the claim petition.

4.It is the case of the respondents that only the claimant had driven the bus in a rash and negligent manner and hit the lorry from the behind.

5.Before the Tribunal, on the side of the claimant, three witnesses were examined as P.W.1 to P.W.3 and Ex.P.1 to Ex.P.10 were marked. On the side of the respondents, three witnesses were examined as R.W.1 to R.W.3 and Ex.R.1 and Ex.R.6 were marked.

6.The Tribunal, after perusing the oral and documentary evidence, held that though the claimant was negligent in driving the bus, under the provisions of Workman Compensation Act, the 4<sup>th</sup> respondent is liable to pay the compensation to the claimant and awarded a sum of Rs.2,01,485/- (Rupees Two Lakh One Thousand Four Hundred and Eighty Five Only) as compensation.

7.Not satisfying with the said compensation, the claimant has filed this Civil Miscellaneous Appeal on the ground that the monthly salary adopted by the



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Tribunal at Rs.4,000/- is very meager and the same has to be enhanced for some extent.

8.The learned counsel for the 4<sup>th</sup> respondent would submit that the salary may be extended to Rs.6,000/- per month.

9.Taking note of the year of the accident and taking note of the fact that the claimant is the driver by profession of the heavy vehicle, this Court feels that it will be reasonable to fix monthly income of the claimant at Rs.7,500/-, since the entire compensation is awarded under the Workman Compensation Act. Accordingly, this Court fixes a sum of Rs.7,500/- as income of the claimant and if the relevant multiplier is adopted by taking note of the age of the claimant at the time of accident, the compensation would come around Rs.2,04,786/- (Rupees Two Lakhs Four Thousand Seven Hundred and Eighty Six Only). The Tribunal considering the medical bills had awarded a sum of Rs.92,270/- towards medical expenses. The same is hereby confirmed. Hence, the claimant is entitled to the total compensation of Rs.2,97,056/- (Rupees Two Lakhs Ninety Seven Thousand and Fifty Six only).

10.Accordingly, the Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal is enhanced as stated above.



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11.The 4<sup>th</sup> respondent is directed to deposit the enhanced compensation amount i.e., Rs.2,97,056/- as modified by this Court, with interest at the rate of 7.5% excluding the period of delay, to the credit of M.C.O.P.No.82 of 2013, on the file of the Motor Accident Claims Tribunal /Special Sub Court, Tirunelveli within a period of six weeks from the date of receipt of a copy of this judgment, less the amount, if any already deposited. On such deposit, the claimant is permitted to withdraw the amount, less the amount if any already withdrawn, by making necessary application before the Tribunal. No costs.

**05.04.2023**

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.The Section Officer,  
Vernacular Records,  
Madurai Bench of Madras High Court,  
Madurai.



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**N.SATHISH KUMAR, J.**

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