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C.M.A.No.617 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.617 of 2023

Lakshmanan

...Appellant

Vs

1.Davaraj
2.National Insurance Co.Ltd.,
Motor Accident Third Party Cell,
No.751, Anna Salai,
Chennai 2.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow this appeal and to enhance the amount awarded in MCOP.No.1987 of 2014 dated 28.03.2019 on the file of the Motor Accident Claims Tribunal, II Small Causes Court, Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For Respondent : No appearance for R1
Mr.J.Chandran for R2



JUDGMENT

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The appeal has been filed against the quantum of compensation awarded by the Tribunal vide order dated 28.03.2019 in MCOP.No.1987 of 2014.

2. The learned counsel for the appellant would submit that on 02.10.2013, while the appellant was riding the two-wheeler bearing Registration No.TN-20-BI-5127 at Mount Poonamallee Salai, a Tipper Lorry bearing Registration No.TN 28 C 1767 came in a rash and negligent manner and dash against the appellant, due to which, he had sustained grievous injuries. Considering all the aspects the Tribunal had awarded the following compensation:

<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
1	Loss of Earnings	14,40,000
2	Pain and Sufferings	2,00,000
3	Attender Charges	50,000
4	Loss of Marital Life	1,00,000
5	Loss of Amenities	50,000
6	Transportation	25,000
7	Loss of Life Expectancy	50,000
8	Medical Expenses	16,75,000
9	Future Medical Expenses	2,00,000



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<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
	Total	37,90,000

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3. He would also submit that the Tribunal had taken 80% as functional disability while awarding the compensation due to the reason that the right leg of the claimant was amputated. Apart from the amputation, large chunk of his flesh on the back has been removed and the claimant is not in a position to clear his bowel normally. Urine bag is fixed and the same has to be frequently replaced. Further, because of the injuries, the claimant cannot even sit normally and his movement is affected. Hence, taking all these aspects into consideration only, the Tribunal had taken the entire disability as assessed by the Medical Board for awarding compensation. However, no future prospects was added and hence, he requests this Court to award compensation by adding future prospects. Further, he would contend that the compensation awarded under other heads are also low and hence, requests this Court to re-determine the same.

4. In reply, the learned counsel appearing for the respondent had strongly opposed the request made by the claimant for adding future prospects since functional disability taken by the Tribunal is on higher side. Further, he would



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also submit that the compensation awarded under the other heads such as Loss of Marital Life and Future Medical Expenses are also on higher side.

5. Heard the learned counsel for the appellant and the respondent and also perused the materials available on record.

6. Today, the claimant had appeared before this Court. On his appearance before this Court, it is clear that the facts, captured by the Tribunal with regard to the amputation of the right leg of the claimant and fixation of urine bag from the date of accident till now, are appears to be true. When such being the case, the claimant cannot run a normal life and he cannot go for any avocation and hence, this Court do not find any error in fixation of 80% as functional disability of the claimant.

7. Further, the accident was occurred in the year 2013 and at the time of accident, the claimant was aged about 35 years. Hence, the notional income of a sum of Rs.10,000/- has been fixed by the Tribunal appears to be just and fair. However, 40% of the notional income has to be added towards future prospects



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as per the law laid down by the Hon'ble Apex Court and thus, the loss of earning would be calculated as follows:

$$\text{Rs.10,000/- (notional income) + Rs.4,000/- (40\% future prospects) * 12 (months) * 15 (multiplier) * 80/100 (functional disability) = Rs.20,16,000/-}$$

8. With regard to the loss of Marital Life, the amount awarded by the Tribunal for a sum of Rs.1,00,000/- appears to be just and reasonable and the same stands confirmed. Further, since the Tribunal had awarded the loss of earning by applying multiplier method, the compensation awarded under the heads Loss of Amenities and Loss of Life Expectancy are set aside. That apart, the compensation awarded towards future medical expenses for a sum of Rs.2,00,000/- appears to be low and hence, the same stands enhanced to a sum of Rs.4,00,000/-.

9. Accordingly, the compensation awarded by the Tribunal is modified as follows:

<i>S.No</i>	<i>Particulars</i>	<i>Compensation awarded by the Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
1	Loss of Earnings	14,40,000	20,16,000



S.No	Particulars	Compensation awarded by the Tribunal (Rs.)	Compensation awarded by this Court (Rs.)
2	Pain and Sufferings	2,00,000	2,00,000
3	Attender Charges	50,000	50,000
4	Loss of Marital Life	1,00,000	1,00,000
5	Loss of Amenities	50,000	Nil
6	Transportation	25,000	25,000
7	Loss of Life Expectancy	50,000	Nil
8	Medical Expenses	16,75,000	16,75,000
9	Future Medical Expenses	2,00,000	4,00,000
	Total	37,90,000	44,66,000

10. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.44,66,000/-. Accordingly, the award amount stands enhanced from a sum of Rs.37,90,000/- to Rs.44,66,000/-. In all other aspects, the award of the Tribunal stands confirmed.

11. In the result, this civil miscellaneous appeal is partly allowed and the 2nd respondent is directed to deposit a sum of Rs.44,66,000/- along with interest and costs, less the amount already deposited, if any, within a period of 6 weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.1987 of 2014 on the file of the Motor Accident Claims Tribunal, II



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Small Causes Court, Chennai. Further, the claimant shall pay necessary Court fee, if any, on the enhanced compensation. Thereafter, the Tribunal is directed to immediately transfer the entire amount to the bank accounts of the claimant by way of RTGS, within a period of 3 weeks from the date of deposit and from the date of receipt of the Bank details obtained for the claimant or application for withdrawal from the claimant, whichever is earlier. No costs.

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Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
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KRISHNAN RAMASAMY,J.

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