



C.M.A.No.1529 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2024

C O R A M

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

C.M.A.No.1529 of 2023

A.Dhanapandian

...Appellant

Vs

1.R.Shankara Narayanan
2.The National Insurance Co.Ltd.,
Third Party Claim Cell,
No.751, Anna Salai,
Chennai 600 002.
Now at:
“Loyal Tower”, 1st Floor, T.P.Cell,
No.66, Greams Road,
Chennai 600 006.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order dated 11.07.2022 passed by the learned Special Sub Judge No.2, Motor Accident Claim Tribunal, Small Causes Court, Chennai in MCOP.No.3368 of 2016 and enhance the award.



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For Appellant : Ms.A.Subadra

For Respondent : R1- Exparte.
Mr.R.Premchander for R2

JUDGMENT

This appeal has been filed challenging the quantum of compensation awarded by the Tribunal vide order dated 11.07.2022 in MCOP.No.3368 of 2016.

2. The learned counsel for the appellants would submit that on 01.12.2015 at about 7.30 pm, while the appellant was standing at West Jones Road, a van bearing Registration No.TN-09-AK-3625 had came in a rash and negligent manner and dashed against the appellant, due to which, he was sustained with 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	Disability	1,00,000
2	Pain and Sufferings	30,000
3	Transportation	4,000



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<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
4	Extra Nourishment	10,000
5	Attender Charges	9,900
6	Loss of Earnings	28,500
	Total	1,82,400

3. Further, he would contend that the claimant, being the driver, had sustained fracture of bone below left knee, fracture of 9 ribs, blood contusion in brain, cut injury in left leg and damage in urinary passage. The Doctor, who examined the injured, had determined the disability at 50%, however, though it is a fit case to apply the multiplier method, the Tribunal had applied percentage method instead of multiplier method. Since the claimant had lost his avocation and he is unable to walk without a stick, he would request this Court to re-determine the loss of earning and disability.

4. In reply, the learned counsel for the respondent would request this Court to apply percentage method instead of multiplier method while awarding compensation to the injured.



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

6. In the present case, it appears that the claimant had sustained severe injuries, for which the disability was assessed by the Doctor at 50% and being a driver, certainly he will not be able to perform his duty any further. Taking all these aspects into consideration, this Court is inclined to take the entire 50% as functional disability and a sum of Rs.9,500/- as notional income and to apply multiplier method. Accordingly, by applying the multiplier method, the loss of income would be calculated as follows:

$$\begin{aligned} &\text{Rs.9,500/- (notional income) + Rs.2,375/- (25\% future prospects)} \\ &\quad * 13 \text{ (multiplier)} * 12 \text{ (months)} \\ &\quad * (1/2) \text{ (deduction towards personal expenses)} = \text{Rs.9,26,250/-} \end{aligned}$$

7. In view of the above, since this Court awarded the compensation of a sum of Rs.9,26,250/- towards loss of earnings due to disability by applying multiplier method, the amount awarded by the Tribunal separately under the heads “disability” is set aside since this Court awarded the compensation for the loss of disability by applying multiplier method.



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8. 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	Disability	1,00,000	Nil
2	Pain and Sufferings	30,000	30,000
3	Transportation	4,000	4,000
4	Extra Nourishment	10,000	10,000
5	Attender Charges	9,900	9,900
6	Loss of Earnings	28,500	9,26,250
	Total	1,82,400	9,80,150

9. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.9,80,150/-. Accordingly, the award amount stands enhanced from a sum of Rs.1,82,400/- to Rs.9,80,150/-. In all other aspects, the award of the Tribunal stands confirmed.

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the 2nd respondent is directed to deposit a sum of Rs.9,80,150/- along with interest and costs, less the amount already deposited, if any, within a period of 6



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weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.3368 of 2016 on the file of the Motor Accident Claims Tribunal, 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 account 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 claimants or application for withdrawal from the claimants, whichever is earlier. No costs.

14.02.2024

Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
nsa

To:

The Motor Accident Claims Tribunal,
Small Causes Court, Chennai.



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KRISHNAN RAMASAMY,J.

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