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C.M.A.No.1831 of 2021

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 02.04.2023

CORAM:

**THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE**

**C.M.A. No.1831 of 2021**

Samuvel Prabakaran

.. Appellant

Vs.

1.Natarajan

2.The Divisional Manager,  
National Insurance Company Ltd.,  
Vellore.

.. Respondents

(No relief sought against the first respondent.

Hence, notice may be dispensed with)

**Prayer:** Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 31.01.2020 made in M.C.O.P. No.221 of 2017 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Vellore.

For Appellant : Mr.C.Prabakaran

For second respondent : Ms.N.B.Surekha

**JUDGMENT**

The appellant is the claimant and he has challenged the impugned award dated dated 31.01.2020 made in M.C.O.P. No.221 of 2017 on the



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file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Vellore on the ground that the compensation awarded to him is low.

2.The appellant/claimant has sustained injuries as a result of an accident caused by a Tractor, owned by the first respondent and insured with the second respondent/Insurance Company. The Tribunal has awarded the compensation as detailed hereunder:

| S.Nos. | Head                                  | Amounts awarded by the Tribunal |
|--------|---------------------------------------|---------------------------------|
| 1.     | Compensation for permanent disability | Rs.2,40,000.00                  |
| 2.     | Pain and sufferings                   | Rs. 70,000.00                   |
| 3.     | Transport charges                     | Rs. 10,000.00                   |
| 4.     | Medical expenses                      | Rs.1,59,437.00                  |
| 5.     | Extra nourishment                     | Rs. 40,000.00                   |
|        | Total                                 | Rs.5,19,437.00                  |

3.The findings of the Tribunal as regards the cause of the accident is un-disputed. The appellant/claimant had sustained right leg amputation and bleeding injuries all over the body. The discharge summary filed by the appellant/claimant before the Tribunal, which has been marked as Ex.P4, also proves the same. The nature of injury sustained by the



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appellant/claimant has also not been disputed by the second respondent/  
Insurance Company as seen from the evidence available on record.

4.The Tribunal has also rightly not applied the multiplier method, after giving due consideration to the oral evidence of P.W.1, the appellant/claimant, wherein he himself deposed that he has not suffered any loss of income on account of the injuries sustained by him as a result of the accident. The Tribunal, took into consideration the fact that the monthly income of the appellant/claimant has not been reduced and he has also received the disability pension from his employer, viz, the Government Aided School, has rightly not applied the multiplier method. The Medical Board has assessed the appellant's/claimant's disability at 80%. On the basis of the same, the Tribunal has awarded the disability compensation to the appellant/claimant on percentage basis at Rs.2,40,000/-, calculated at Rs.3000/- per percentage of disability.

5.This Court, after giving due consideration to the fact that the accident had happened in the year 2016, fixes the disability compensation at Rs.5,000/- per percentage instead of Rs.3,000/- per



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percentage of disability, erroneously fixed by the Tribunal. Accordingly, the compensation of permanent disability is enhanced to Rs.4,00,000/- from Rs.2,40,000/-, erroneously fixed by the Tribunal.

6.Insofar as the compensation awarded by the Tribunal at Rs.70,000/- towards pain and suffering, Rs.1,59,437/- towards medical expenses and Rs.40,000/- towards extra nourishment are concerned, this Court is in agreement with the assessment made by the Tribunal.

7.However, the Tribunal has awarded a lesser compensation towards transportation at Rs.10,000/-. Considering the year of the accident, this Court fixes a sum of Rs.25,000/- as compensation towards transportation. The Tribunal has not awarded any compensation to the appellant/claimant towards Attender Charges and Loss of Amenities, for which the appellant/claimant is entitled to. This Court, after giving due consideration to the nature of injuries sustained by the appellant/claimant, fixes the compensation towards Attender Charges and Loss of Amenities at Rs.30,000/- and Rs.50,000/- respectively.



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8.For the foregoing reasons, the impugned award passed by the

Tribunal is re-worked in the following manner:

|                                       |    |               |
|---------------------------------------|----|---------------|
| Compensation for permanent disability | .. | Rs.4,00,000/- |
| Pain and sufferings                   | .. | Rs. 70,000/-  |
| Transport charges                     | .. | Rs. 25,000/-  |
| Medical expenses                      | .. | Rs.1,59,437/- |
| Extra nourishment                     | .. | Rs. 40,000/-  |
| Attender charges                      | .. | Rs. 30,000/-  |
| Loss of amenities                     | .. | Rs. 50,000/-  |
|                                       |    | -----         |
|                                       |    | Rs.7,74,437/- |
|                                       |    | -----         |

9.Accordingly, this civil miscellaneous appeal is disposed of by enhancing the award amount. The second respondent/insurance company is directed to deposit the enhanced award amount of Rs.7,74,437/-, after deducting the amount already deposited, if any, together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit and cost to the credit of M.C.O.P. No.221 of 2017 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Vellore, within a period four weeks from the date of receipt of a copy of this judgment.

10.The appellant/claimant is permitted to withdraw the said amount, once it is deposited by the second respondent/Insurance



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**ABDUL QUDDHOSE, J.**

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Company, by filing an appropriate application. On such application being made, the Tribunal shall transfer the amount lying to the credit of M.C.O.P. No.221 of 2017 to the bank account of the appellant directly through RTGS, within a period of one week thereafter. No costs.

02.04.2024

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Internet: Yes/No

Speaking Order/Non-Speaking Order

To

1. The Motor Accident Claims Tribunal,  
Chief Judicial Magistrate Court, Vellore.
2. The Section Officer,  
V.R. Section,  
High Court, Madras.

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