



CMA.No.2963 of 2022

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

**DATED: 20.02.2024**

**CORAM:**

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

**CMA.No.2963 of 2022**

Balamurugan

... Appellant

-Vs-

1.R.Prathap  
2.United India Insurance Company Limited,  
Divisional Office No.1, TP Hub, No.104-A,  
Ranga Building, Peramanur Main Road,  
Near Four Road,  
Peramanur,  
Salem – 636 007.

...Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, for enhancement of compensation amount awarded in the Judgment and Decree dated 01.03.2018 made in M.C.O.P.No.1710/2016 on the file of the Motor Accident Claims Tribunal Special Sub Court No.1, Salem District.

|               |                                       |
|---------------|---------------------------------------|
| For Appellant | : Mr.M.Arun<br>for M/s.Karan and Uday |
| For R1        | : No appearance                       |
| For R2        | : Mr.D.Bhaskaran                      |



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### **JUDGMENT**

**WEB COPY** This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 01.03.2018 made in MCOP.No.1710 of 2016 on the file of the Motor Accident Claims Tribunal, Speical Sub Court No.1, Salem District.

2. The appellant is the claimant in MCOP.No.1710 of 2016 on the file of *Motor Accidents Claims Tribunal, Special Sub Court No.1, Salem District*. He filed the above said claim petition, claiming a sum of **Rs.50,00,000/-** as compensation for the injuries sustained by him in an accident that took place on 29.05.2016.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to the rash and negligent driving by the driver of the first respondent and directed the second respondent-Insurance Company to pay a sum of **Rs.21,73,386/-** as compensation to the appellant.



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4. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5. The learned counsel for the appellant submitted that the accident occurred on 29.05.2016 and that at the time of the accident, the deceased was 25 years old and was working as a cleaner and earning Rs.15,000/- per month. Due to the accident, the appellant sustained a crush injury in his left leg and his right leg was amputated above the knee. Therefore, he lost his marital prospects and his opportunities for avocation in entirety. The disability of the appellant was determined at 85% by the Medical Board, however, the Tribunal has rightly fixed the functional disability of the appellant at 100% and awarded the compensation.

6. The learned counsel however, contended that for an accident which occurred in 2016, the notional income of the injured was fixed at Rs.6,000/- which according to him is on the lower side. Therefore, he would submit that the notional income of the deceased be fixed at Rs.14,000/-. Further, he would submit that no amount of compensation



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was granted towards the future medical expenses of the appellant and that the compensation awarded by the Tribunal towards pain and suffering is also on the lower side. Hence, he requested to redetermine the compensation awarded by the Tribunal.

7.The learned counsel for the second respondent insurance company fairly submitted that as far as the fixation of negligence and fastening the liability is concerned, there is no dispute. The dispute is only with regard to the fixation of the notional income. He suggested that Rs.10,000/- may be fixed as the notional income of the appellant. He however, submitted that the functional disability of the appellant was fixed at 85% by the Medical Board as the mobility of the appellant was not curtailed in entirety. Therefore, he contended that the functional disability of the appellant may be fixed at 85%. With regard to pain and suffering and future medical expenses, he submitted that the Tribunal had awarded reasonable compensation and that the same may be confirmed.



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8.Considered the submissions made by the learned counsel for the appellant and the second respondent and perused the materials available on record.

9.In the present case, the accident occurred on 29.05.2016 and the appellant was 25 years old at the relevant time. The disability of the appellant was determined at 85% as per the disability certificate issued by the Medical Board, which was marked as Ext.C1. Therefore, the Tribunal has rightly considered the disability of the appellant as 100% functional disability. However, the Tribunal has fixed the notional monthly income of the appellant at Rs.6,000/- per month, which is on the lower side. Even for a vegetable vendor, who sustained injuries in an accident which occurred in the year 2008, the Hon'ble Apex Court, in the case of *Syed Sadiq Vs. United India Insurance Company*, reported in **2014 (1) TNMAC 459 (SC)**, fixed the notional monthly income at Rs.6,500/-, by applying the multiplier based on cost inflation index. In the present case, the accident occurred in the year 2016 and hence, appropriate addition has to be made to the notional income of the victim of the accident.



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10. Since a person who sustained injuries in both the legs, with the right leg amputated cannot go for any work and has to manage himself for his lifetime only with the compensation awarded by this Court, the Court feels that reasonable notional income has to be fixed. Therefore, this Court fixes the notional monthly income of the appellant at Rs.13,000/- and determines the disability suffered by the appellant at 100%. By adding 40% to the notional monthly income of the appellant towards the future prospects and applying the multiplier of 18, the compensation awarded towards disability is redetermined as below;

$$13,000 + 5,200 = 18,200;$$

$$18,200 \times 18 \times 12 = 39,31,200/-$$

11. The compensation awarded by the Tribunal under the head 'pain and suffering' is on the lower side, hence, a sum of Rs.1,00,000/- is awarded under the said head. Towards the future medical expenses of the appellant, an additional sum of Rs.1,00,000/- is awarded. With regard to the compensation awarded by the Tribunal under all other heads of compensation are concerned, the amount awarded by the Tribunal is just



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and fair and the same stands confirmed. Thereby, the compensation awarded by the Tribunal stands redetermined as below;

| Sl. No | Description             | Amount awarded by Tribunal (Rs) | Amount awarded by this Court (Rs) | Award confirmed or enhanced or granted |
|--------|-------------------------|---------------------------------|-----------------------------------|----------------------------------------|
| 1.     | Disability              | 12,96,000/-                     | 39,31,200/-<br>-                  | Enhanced                               |
| 2.     | Pain and Suffering      | 50,000/-                        | 1,00,000/-                        | Enhanced                               |
| 3.     | Transportation Expenses | 10,000/-                        | 10,000/-                          | Confirmed                              |
| 4.     | Medical Expenses        | 6,17,386/-                      | 6,17,386/-                        | Confirmed                              |
| 5.     | Extra Nourishment       | 50,000/-                        | 50,000/-                          | Confirmed                              |
| 6.     | Loss of Amenities       | 1,50,000                        | 1,50,000/-                        | Confirmed                              |
| 7.     | Future medical expenses | -                               | 1,00,000/-                        | Enhanced                               |
|        | <b>Grand Total</b>      | <b>21,73,386/-</b>              | <b>49,58,586/-</b><br>-           | Enhanced by<br>27,85,200/-             |

12.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.21,73,386/- is hereby enhanced to Rs.49,58,586/- together with interest at the rate of



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7.5% per annum from the date of petition till the date of deposit. The second respondent Insurance Company is directed to deposit the award amount now determined by this Court, along with interest and costs, less the interest payable for the enhanced amount of compensation for a period of 664 days, within a period of **six weeks** from the date of receipt of a copy of this judgment to the credit of **MCOP.No. 1710 of 2016** on the file of the Motor Accidents Claims Tribunal, Special Sub Court No.1, Salem District. On such deposit being made, the Tribunal is directed to transfer the Award amount, directly to the Bank account of the Appellant/Claimant through RTGS, within a period of **three weeks**. The appellants/claimant shall pay necessary Court fee, if any, on the enhanced compensation.

13.Accordingly, the Civil Miscellaneous Petition is partly allowed.

No costs.

20.02.2024

Tsg

To



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- 1.The Motor Accidents Claims Tribunal,  
Special Sub Court No.1, Salem District.
- 2.The Section Officer,  
V.R.Section, High Court, Madras.



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**KRISHNAN RAMASAMY, J.,**

Tsg

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