



C.M.A.No.1369 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 06.02.2024**

CORAM :

**The Hon'ble Mr. Justice Krishnan Ramasamy**

**C.M.A.No.1369 of 2023**

Narayanan

... Appellant/Petitioner

Vs.

1. Shanmuga Sundaram  
2. The Divisional Manager,  
National Insurance Company Limited,  
No.111/A, Kosamada Street,  
Tiruvannamalai.

... Respondents

**Prayer:** Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the Judgment and Decree dated 19.04.2022 and made in M.A.C.T.O.P.No.606 of 2019 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Tiruvannamalai.

|               |                                             |
|---------------|---------------------------------------------|
| For Appellant | : Ms.M.Sunithi Abirami<br>for M.Malar       |
| For R1        | : Ex-parte vide JR (AS)<br>dated 14.07.2023 |
| For R2        | : Mr.K.Ramarajan<br>for Mr.A.Devanathan     |



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## **JUDGEMENT**

This Civil Miscellaneous Appeal has been filed by the appellant/claimant, challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal, on the file of M.A.C.T.O.P.No.606 of 2019 dated 19.04.2022.

2. On 03.08.2019 at about 2.30 p.m., when the appellant/claimant was travelling as a pillion rider in a two wheeler bearing Reg.No.TN 25 BA 2594, he was hit by a car, bearing Reg.No.TN 49 AY 6214, which came from the opposite direction and was driven by its driver in a rash and negligent manner. Due to said accident, the claimant sustained multiple injuries all over his body. Thereafter, the claimant made a claim petition before the Tribunal, claiming a compensation of Rs.50,00,000/-.

3. On consideration of oral and documentary evidence, the Tribunal has awarded a sum of Rs.5,68,411/- towards compensation to the appellant. Being not satisfied with the same, the appellant has filed the present appeal.



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4. The learned counsel for the appellant submitted that, due to the accident, the claimant has suffered left floating knee (Fraser type 1), mild head injury, fracture left femur and left tibia. The Medical Board, examined the claimant and fixed permanent disability at 40%. The main grievance of the appellant is that, instead of applying multiplier method, the Tribunal had fixed Rs.5,000/- per percentage and arrived at Rs.2,00,000/- towards disability, which is on the lower side and the same may be modified. Further, the learned counsel contended that at the time of accident, the claimant was working as a mason and earning a sum of Rs.20,000/- per month. However, without considering the same, the Tribunal had erroneously fixed the notional monthly income of the appellant at Rs.9,000/- per month, which is very meager, and the same needs to be enhanced at Rs.15,000/- per month. Accordingly, he prays for appropriate enhancement in favour of the appellant.

5. Per contra, the learned counsel appearing for the second respondent/Insurance Company would submit that this Court may re-determine the notional monthly income of the appellant/claimant by fixing it at Rs.13,000/- , which may be fair and reasonable.

6. Heard the learned counsel for the appellant and the learned counsel



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appearing on behalf of the second respondent and perused the materials available on record.

7. The fact and manner of the accident is not disputed by the parties. Therefore, this Court is not dealing with the said aspect. The only grievance of the appellant is with regard to the quantum of compensation awarded. In the present case, the Medical Board fixed the disability of the claimant at 40%, and based on oral and documentary evidence, the Tribunal has awarded compensation. In order to ascertain the present status of the claimant, this Court vide order dated 30.01.2024, directed the appellant/claimant to appear before this Court. Today, he appeared before this Court, and this Court noticed that due to the injuries, he is not able to carry on his job, and after four years of accident, still the swelling appears in his leg and he is not able to walk properly. Without taking into consideration of all these aspects, the Tribunal has awarded the compensation based on percentage method.

8. As far as the loss of income is concerned, this Court feels it appropriate to fix notional monthly income at Rs.14,000/- per month and adding future prospects at 40% as per the dictum laid-down by the Hon'ble Apex Court, the total income is quantified at Rs.19,600/- per month. The injured was aged about



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30 years at the time of accident as evidenced from the records, adopting the multiplier of 17 as per the decision of Apex Court, the loss of earning due to disability is arrived at Rs.19,600/-x12x17x(40%)=Rs. 15,99,360/-.

9. Consequently, a sum of **Rs.2,00,000/-** awarded by the Tribunal under the head of “loss of earning due to disability” is hereby modified, and enhanced to **Rs.15,99,360/-**. No amount has been awarded under the heads of “future medical expenses”, therefore, this Court is inclined to award a sum of Rs.25,000/- towards “future medical expenses”. Considering the nature of injuries sustained by the claimant, the loss of income during the treatment period for 5 months is arrived at Rs.14,000/-x5 =Rs.70,000/-.

10. Insofar as the compensation awarded by the Tribunal under other heads is concerned, this Court finds the same is just and proper and the same is hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as under :-

| <i><b>Heads</b></i>                     | <i><b>Awarded by the<br/>Tribunal<br/>(Amount in Rs.)</b></i> | <i><b>Awarded by this<br/>Court (Amount<br/>in Rs.)</b></i> |
|-----------------------------------------|---------------------------------------------------------------|-------------------------------------------------------------|
| Total loss of earning due to disability | <b>2,00,000/-</b>                                             | <b>15,99,360/-</b>                                          |



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| <i><b>Heads</b></i>                        | <i><b>Awarded by the<br/>Tribunal<br/>(Amount in Rs.)</b></i> | <i><b>Awarded by this<br/>Court (Amount<br/>in Rs.)</b></i> |
|--------------------------------------------|---------------------------------------------------------------|-------------------------------------------------------------|
|                                            |                                                               | <b>(enhanced)</b>                                           |
| Future medical expenses                    | <b>Nil</b>                                                    | <b>25,000/-<br/>(awarded)</b>                               |
| Medical expenses                           | 1,48,411/-                                                    | 1,48,411/-                                                  |
| Loss of earning during<br>treatment period | <b>45,000/-</b>                                               | <b>70,000/-<br/>(enhanced)</b>                              |
| Pain and sufferings                        | 50,000/-                                                      | 50,000/-                                                    |
| Loss of amenities                          | 50,000/-                                                      | 50,000/-                                                    |
| Attender charges                           | 25,000/-                                                      | 25,000/-                                                    |
| Transportation charges                     | 25,000/-                                                      | 25,000/-                                                    |
| Extra nourishments                         | 25,000/-                                                      | 25,000/-                                                    |
| <b>Total</b>                               | <b>5,68,411/-</b>                                             | <b>20,17,771/-</b>                                          |

11. The appeal is partly allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.5,68,411/-** to **Rs.20,17,771/-**. The second respondent/Insurance Company is directed to deposit the said amount along with interest and cost, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.606 of 2019 on the file of Special Sub Court, Tiruvannamalai. Upon such deposit being made, the Tribunal is directed to transfer the entire amount to the bank account of the claimant, by way of RTGS, within a period of three weeks from the deposit or from the date of receipt of the Bank details obtained from the claimant or application for



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withdrawal from the claimant, whichever is later. It is made clear that the claimant will not be entitled for any interest for the delay period of 203 days.

The appellant/claimant is directed to pay the necessary Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time the certified copy showing proof of payment of Court fee has been produced by the claimant. No costs.

**06.02.2024**

Index : Yes / No  
NCC : Yes / No  
jd

To

1. The Motor Accident Claims Tribunal,  
Special Sub Court,  
Tiruvannamalai.

2. The Section Officer,  
V.R. Section,  
High Court, Madras.



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**Krishnan Ramasamy,J.,**  
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