



CMA.No.2661 of 2023

In the High Court of Judicature at Madras

Dated : 11.7.2024

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Civil Miscellaneous Appeal No.2661 of 2023

Venkatraman

...Appellant

Vs

1.M.Sakthivel

2.The New India Assurance
Company Ltd., rep.by its
Manager, Ranipet,
North Arcot District.

...Respondents

APPEAL under Section 173 of the Motor Vehicles Act, 1988
against the decree and judgment dated 10.3.2020 in M.C.O.P.No.54 of
2016 on the file of the Motor Accidents Claims Tribunal-cum-Special
District Court (MACT), Dharmapuri.

For Appellant	:	Mr.M.Selvam
For R2	:	Mr.C.Johnson
For R1	:	Notice dispensed with

JUDGMENT

The claimant, not being satisfied with the quantum of
compensation awarded, has filed this appeal against the award dated
10.3.2020 passed in M.C.O.P.No.54 of 2016 on the file of the Motor



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Accidents Claims Tribunal-cum-Special District Court (MACT),
Dharmapuri (for short, the Tribunal below).

2. The facts leading to filing of this appeal are as follows :

(i) The claimant/appellant was driving an Eicher goods vehicle on 06.10.2012 at Bangalore - Chennai National Highway. At about 2.30 AM, the offending vehicle, which was a lorry, was abruptly stopped in the middle of the road without giving any caution and as a result, the vehicle driven by the claimant/appellant rammed on the lorry. Due to this accident, the claimant/appellant sustained crush injuries in his right leg and his right leg below knee was amputated.

(ii) At the time of accident, the claimant/appellant was aged about 29 years and the Medical Board assessed the permanent disability at 60%. It was under those circumstances, the claim petition came to be filed before the Tribunal below.

(iii) The first respondent remained ex parte before the Tribunal below. The second respondent entered appearance and filed a counter to the claim petition.

(iv) The Tribunal below, on considering the facts and circumstances of the case and on appreciation of the oral and documentary evidence, came to the conclusion that the driver of the lorry was negligent and at the same time, there was also contributory



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negligence on the part of the claimant/appellant. Accordingly, the Tribunal below fixed 75% liability on the lorry driver and attributed 25% negligence on the claimant/appellant. Thereafter, the Tribunal below proceeded to arrive the total compensation at Rs.15,35,000/- under various heads, which are as follows :

<i>S. No.</i>	<i>Head</i>	<i>Amount in Rs.</i>
1	<i>Compensation for disability</i>	<i>11,01,600/-</i>
2	<i>Pain & Suffering</i>	<i>50,000/-</i>
3	<i>Extra nourishment expenses</i>	<i>25,000/-</i>
4	<i>Attender charges</i>	<i>10,000/-</i>
5	<i>Loss of amenities</i>	<i>1,00,000/-</i>
6	<i>Medical expenses</i>	<i>2,24,000/-</i>
7	<i>Transport expenses</i>	<i>25,000/-</i>
	<i>Total</i>	<i>15,35,600/-</i>
	<i>75% of total compensation</i>	<i>11,51,700/-</i>

The above compensation was directed to be paid together with interest at the rate of 7.5% per annum. Not being satisfied with the award passed by the Tribunal below, the claimant/appellant has filed this appeal seeking for enhancement of compensation.

3. Heard the learned counsel for the appellant/claimant and the learned counsel appearing for the second respondent.

4. This Court has carefully considered the submissions of the learned counsel on either side. This Court has also carefully gone



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through the award passed by the Tribunal below.

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5. The bone of contention is with regard to the notional monthly income that was fixed by the Tribunal below.

6. The accident had taken place in the year 2012 and the claimant/appellant was the owner/driver of the Eicher goods vehicle. The accident resulted in the amputation of his right leg below knee. The Tribunal below fixed the notional monthly income of the claimant/appellant at Rs.9,000/-. This Court is of the considered view that the notional monthly income fixed by the Tribunal below is on the lower side. Hence, this Court is inclined to fix the notional monthly income at Rs.10,000/- and add 40% towards future prospects.

7. Thus, the compensation under the head 'disability' is calculated at Rs.17,13,600/- (Rs.14,000/- X 12 X 17 X 60%) instead of Rs.11,01,600/-. The various amounts granted under the other heads are reasonable and they do not require the interference of this Court.

8. In the result, the above civil miscellaneous appeal is partly allowed and the total compensation amount awarded by the Tribunal



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below is modified to the extent that the appellant/claimant is entitled to a total compensation of Rs.16,10,700/-. (Rs.21,47,600/- X 75%). It is seen that the Tribunal below already permitted the appellant/claimant to withdraw 50% of the award amount. Since the accident took place in the year 2012, the second respondent is directed to deposit the enhanced award amount to the extent indicated in this judgment **less the amount already deposited** together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit forthwith. On such deposit, the appellant/claimant shall be permitted to withdraw the same. No costs.

11.7.2024

To

- 1.The Motor Accidents Claims Tribunal-cum-Special District Court (MACT), Dharmapuri.
- 2.The Manager, New India Assurance Company Ltd., Ranipet, North Arcot District.

RS



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N.ANAND VENKATESH,J

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