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Civil Miscellaneous Appeal No.1455 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1455 of 2024

M.Dharman

S/o.Manu @ Manuvel

... Appellant

Vs.

1.M.Nithiyapriya

W/o.Magudeeswaran

2.Shriram General Insurance Co. Ltd.,

E-8, EPIP, RIICO Industrial Area,

Sitapura, Jaipur, Rajasthan.

Having an office at D.No.5F,

Sachin Plaza, Rediyya Block No.1,

Sriram Nagar, No.1, Alagapuram,

Salem - 636 016.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 25.04.2023 made in M.C.O.P.No.111 of 2018 on the file of Motor Accident Claims Tribunal, Sub Court, Mettur.

For Appellant : Mr.M.Lokesh

For Respondents : Mrs.R.Sreevidhya [R2]



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JUDGMENT

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The appellant/claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, Sub Court, Mettur, in M.C.O.P.No.111 of 2018, dated 25.04.2023, has filed this appeal.

2. The case of the claimant is that on 11.03.2018, he was riding a two wheeler from Mecheri to Mallikuntham road and at about 04.30 p.m., when the vehicle was crossing the bus stand, the offending vehicle, a car, was coming from the opposite direction in a rash and negligent manner and it dashed on the two wheeler. The claimant sustained grievous injuries, which resulted in the amputation of the right leg above knee. The Medical Board assessed the disability at 85%. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking compensation.

3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and



negligent driving on the part of the driver of the offending vehicle.

Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.27,68,496/- under various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of income and permanent disability	24,00,000/-
2.	Medical bills	2,83,496/-
3.	Pain and sufferings	75,000/-
4.	Transport expenses	10,000/-
	Total	27,68,496/-

The above compensation was directed to be paid along with interest at 7.5% p.a.

4. The appellant/claimant, not being satisfied with the quantum of compensation awarded by the Tribunal, has filed this appeal.

5. Heard Mr.M.Lokesh, learned counsel for appellant/claimant and Mrs.R.Sreevidhya, learned counsel for second respondent insurance company.



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6. This Court carefully considered the submissions made by learned counsel on either side and the materials available on record.

7. This Court also carefully went through the award passed by the Tribunal.

8. The first ground raised by learned counsel for appellant pertains to the monthly income fixed by the Tribunal. The Tribunal, on considering the fact that the right leg of the claimant was amputated above knee and also of the fact that the claimant was a lorry driver, came to a conclusion that there is 100% loss of earning capacity suffered by the claimant. Hence, multiplier method was adopted.

9. The claimant, in order to prove that he was working as a driver at Annamalai Transport Corporation, examined PW-2, who was the employer and also Ex.P18 - salary certificate was marked to substantiate the salary earned by the claimant. The Tribunal fixed the monthly income at Rs.15,000/-. However, the Tribunal deducted 1/3 towards personal expenditure. The Tribunal also added only 25% towards future prospects.



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10. In a case of injury, there is no question of deducting any amount towards personal expenditure. That apart, considering the fact that the claimant was only 31 years at the time of accident, 40% must be added towards future prospects.

11. In the light of the above discussion, the compensation under the head 'loss of earning capacity' is calculated as follows:

Monthly Income	:	Rs. 15,000/-
Add: Future Prospects	:	Rs. 6,000/-
40% of Rs.15,000/-	:	-----
		Rs. 21,000/-
Annual Income	:	Rs. 2,52,000/-
(21,000 * 12)		
Multiplier	:	x 16

Loss of earning capacity	:	Rs.40,32,000/-

12. The claimant underwent treatment as an inpatient for nearly nine days and he underwent operation and his right leg above knee was amputated. In view of the same, this Court is inclined to grant a sum of Rs.50,000/- towards loss of amenities. This Court is also inclined to grant a sum of Rs.25,000/- each towards attender charges and extra nourishment.



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13. The compensation awarded under other heads is justified and the same does not require the interference of this Court.

14. For the foregoing reasons, the compensation awarded by the Tribunal is modified as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount awarded by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	Loss of income and permanent disability & loss of earning capacity	24,00,000/-	40,32,000/-
2.	Medical bills	2,83,496/-	2,83,496/-
3.	Pain and sufferings	75,000/-	75,000/-
4.	Transport expenses	10,000/-	10,000/-
5.	Loss of amenities	-	50,000/-
6.	Attender charges	-	25,000/-
7.	Extra nourishment	-	25,000/-
	Total	27,68,496/-	45,00,496/-

15. The compensation awarded by the Tribunal at Rs.27,68,496/- is enhanced to Rs.45,00,496/-. The second respondent insurance company is directed to deposit the compensation awarded by this Court, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of six (6)



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weeks from the date of receipt of this judgment. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

22.07.2024

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

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To

The Motor Accident Claims Tribunal,
Sub Court, Mettur.



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N.ANAND VENKATESH, J.

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