



C.M.A.No.2740 of 2023

IN THE HIGH OF JUDICATURE AT MADRAS

DATED : 27.02.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

C.M.A.No.2740 of 2023

Sasikumar

... Appellant

Vs.

1. Radhakrishnan

2. The Reliance General Insurance Co. Ltd.,
Reliance House, No.6, Haddows Road,
6th Floor, Opposite Sashtiri Bavan,
Nungambakkam, Chennai.

3. The National Insurance Co. Ltd.,
Divisional Office, Jawaharlal Nehru Street,
Pondicherry.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree, dated 11.07.2023 made in M.C.O.P.No.21 of 2022, on the file of the Motor Accident Claims Tribunal/III Additional District Court, Villupuram @ Kallakuruchi.



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For Appellant : Mr.K.Suryanarayanan
Respondent-1 : Notice dispensed with
For Respondent-2 : Mr.P.Suresh Srinivasan
For Respondent-3 : Mrs.R.Sree Vidhya

JUDGEMENT

This instant Appeal is filed against the award passed by the Motor Accident Claims Tribunal (hereinafter, referred to as the 'Tribunal') in M.C.O.P.No.21 of 2022, dated 11.07.2023.

2. On 21.12.2021 at about 20.30 hours, when the claimant was riding his two-wheeler, bearing Regn.No.TN-15-X-4961, opposite to Union Office, Kallakurichi-Kachirayapalayam main road, at that time, first respondent's vehicle, Trailer Tractor bearing Reg.No.TN-82-V-2154 (Tractor) and TN-32-J-8750 (Trailor) was driven by its driver in a rash and negligent manner and dashed against the claimant's two wheeler, as a result of which, the claimant sustained grievous injuries all over the body. Hence,



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the claimant filed a Petition seeking a sum of Rs.15,00,000/- as compensation.

3. The Tribunal, on evaluation of both oral and documentary evidence arrived at a conclusion that the accident occurred only due to rash negligence on the part of the first respondent's driver and hence, all the respondents are jointly and severally liable to pay compensation. Thus, by holding so, the Tribunal directed the second respondent to pay a sum of Rs.4,94,646/- together with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit. The breakup details of the compensation awarded by the Tribunal under various heads are as follows:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Award</i>
1	Compensation for injuries	Rs.1,25,000/-
2	Pain and Sufferings	Rs. 10,000/-
3	Transportation	Rs. 5,000/-
4	Extra Nourishment	Rs. 5,000/-
5	Loss of Income for two months	Rs. 20,000/-
6	Medical Bills	Rs.3,29,646
	Total	Rs.4,94,646



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4. Questioning the quantum of compensation awarded by the Tribunal, the appellant/claimant has preferred the present Appeal seeking for enhancement.

5. Since the present Appeal is filed only questioning the quantum of compensation awarded by the Tribunal, this Court is not traversing into the other aspects of the award passed by the Tribunal.

6. Mr.K.Suryanarayanan, the learned counsel appearing for the appellant/claimant would submit that due to the accident, the appellant/claimant sustained crush injury on Left leg, ankle/T2DM-Post-Traumatic sequel and other injuries; that the District Medical Board issued a Disability Certificate/Ex.C.1, assessing the disability sustained by the appellant at 30%; that but the Tribunal, based on the same, proceeded to determine compensation under the head, 'Disability' by adopting percentage method by citing that since the disability was below 50%, multiplier method was not applicable and fixed a sum of Rs.2,500/- towards per percentage of disability, which has resulted in awarding an inadequate compensation of



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Rs.1,25,000/- under the said head. Therefore, the learned counsel insisted this Court to re-determine the compensation by adopting multiplier method and to award just and fair compensation under the said head.

6.1 Further, the learned counsel submitted that the award passed by the Tribunal towards 'Loss of Income during Treatment' at Rs.20,000/- is also low and the same requires re-determination.

7. Mr.P.Suresh Srinivasan, the learned counsel appearing for the second respondent/Reliance General Insurance Co. Ltd., though admitted the manner of the accident and the disability sustained by the appellant/claimant, however, submitted that since the appellant/claimant is doing Tailoring business, he could continue the said avocation by using Electronic Sewing Machine, and by averring so, justified the award passed by the Tribunal under the head, 'Disability'. Further, he contended that even the quantum of compensation passed by the Tribunal under all other heads is also just and fair and requires no interference.



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8. Mrs.R.Sree Vidhya learned counsel appearing for the second respondent/National Insurance Company Ltd., adopted the arguments of the learned counsel for the second respondent/Reliance General Insurance Company Ltd by contending that award passed by the Tribunal under various heads is just and fair and the same warrants no interference.

9. I have given due consideration to the submissions made by the learned counsel for the appellant/claimant and the learned counsel for the second and third respondents/Insurance Companies and perused the materials available on record.

10. It is not in dispute that due to the accident, which occurred in the year 2021, the appellant/claimant sustained crush injury on Left leg, ankle/T2DM-Post-Traumatic sequel and other injuries; that as per Ex.C.1/Disability Certificate, the District Medical Board assessed the disability sustained by the appellant/claimant at 30%; that, the Tribunal while determining compensation towards Disability/Compensation to injuries, applied the percentage method by citing that the reason that "since



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the disability was below 50%, multiplier method was not applicable".

However, since it has been urged by the learned counsel for the appellant/claimant that the disability sustained by the appellant is permanent in nature, and insisted the Court to redetermine the compensation by adopting multiplier method, this Court in order to find out the veracity of such statement, vide order dated 12.02.2024, directed the appellant/claimant to appear before this Court on 27.02.2024 (i.e. today). Accordingly, the appellant/claimant has appeared before this Court today. It is apparent that due to the disability sustained by the appellant at the time of the accident, his left leg below knee got completely injured, resulting in disfigurement and further, it is obvious that he could no longer continue his avocation as a Tailor, and to that extent, his earning capacity also came to be reduced.

10.1 Therefore, this Court is of the view that the Tribunal ought to have taken into consideration of the aforesaid aspects and awarded compensation by adopting multiplier method instead of applying percentage method, as the disability sustained by the appellant is permanent in nature. Hence, this Court is setting aside the award passed by the Tribunal with



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respect to 'Disability/Compensation for Injuries' which was determined by way of adopting percentage method and is proceeding to determine compensation towards the said head based on multiplier method.

10.2 Thus, this Court, taking into consideration of the appellant's age (28 years) avocation (Tailor) and year of the accident (2021) deems it fit to fix a sum of Rs.15,000/- as notional monthly income (which is inclusive of future prospects) of the appellant, as the same would be just and reasonable. However, considering the nature of avocation done by the appellant/claimant, this Court is not to add future prospects.

10.3 Thus, by fixing the notional monthly income of the injured at Rs.15,000/-; applying right multiplier of '17' (since the injured was aged 28 years) and taking disability at 30%, the compensation towards 'Permanent Disability' is calculated as under:-

Monthly income x 17 Multiplier x 12 x 30% Disability

Rs.15,000/- x 17x 12 x 30/100 = Rs.9,18,000/-



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10.4 Consequently, the sum of Rs.1,25,000/- awarded by the Tribunal under the head of 'Compensation for Injuries' is hereby modified and enhanced to **Rs.9.18,000/-**.

10.5 Since this Court fixed the notional monthly income of the injured at Rs.15,000/-, resultantly, the sum of Rs.20,000/- awarded by the Tribunal under the head of 'Loss of Earning during Treatment' requires to be modified. It is seen from the award that the Tribunal has taken 2 months, as non earning period for the purpose of awarding compensation under the said head and this Court is inclined to take the same period. Accordingly, the compensation under the said head is determined in the following manner (Rs.15,000/- x 2months) = **Rs.30,000/-**. Hence, the award passed by the Tribunal towards Loss of Income during treatment period at Rs.20,000/- is hereby modified and enhanced to **Rs.30,000/-**.

10.6 Except the modification made under two heads, viz., i) 'Permanent Disability' and ii) 'Loss of Income during treatment period', the



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award of compensation passed by the Tribunal under other heads remain unaltered as the same appears to be just and reasonable.

11. Thus, the total compensation payable to the appellant/claimant under various Heads is as hereunder:-

<i>Sl.No.</i>	<i>Heads</i>	<i>Award</i>
1	Permanent Disability	Rs.9,18,000/-
2	Pain and Sufferings	Rs. 10,000/-
3	Transportation	Rs. 5,000/-
4	Extra Nourishment	Rs. 5,000/-
5	Loss of Income for two months	Rs. 30,000/-
6	Medical Bills	Rs.3,29,646
	Total	Rs.12,97,646/-

11.1 Consequently, the total compensation amount of **Rs.4,94,646** awarded by the Tribunal is hereby modified and enhanced to **Rs.12,97,646/-** which shall carry interest at the rate of **7.5%** per annum from the date of claim petition till the date of deposit.

12. In the result, this Civil Miscellaneous Appeal filed by the



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appellant/claimant is partly allowed on the following terms:-

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(i) The second respondent, Reliance General Insurance Co. Ltd., is directed to deposit the entire amount awarded by this Court equally along with interest at the rate of 7.5 % p.a. and costs before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment, after deducting the amount already deposited, if any.

ii) On such deposit being made by the second respondent, the Tribunal shall transfer the amount directly to the claimant's respective bank account through RTGS within a period of three weeks thereon, upon which, the appellant/claimant is entitled to withdraw the entire award amount, less the amount already withdrawn, if any, by making necessary application before the Tribunal.

iii) The appellant/claimant is directed to pay the court fee for the enhanced compensation, if any.

iv) There shall be no order as to costs.

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To

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The III Additional District Court,
Motor Accident Claims Tribunal,
Villupuram @ Kallakuruchi.



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Krishnan Ramasamy,J.,

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