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C.M.A.No.163 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2024

C O R A M

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

C.M.A.No.163 of 2024

Parameshwari

...Appellant

Vs

1.D.Murugan
2.M/s.United India Insurance Co. Ltd.,
13A, Nethani Road, Manjakuppam,
Cuddalore.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree made in MCOP.No.1376 of 2009 dated 13.12.2012 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Cuddalore.



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For Appellant : Mr.D.Baskar

For Respondent : Mr.P.Sankaranarayanan, for R2

JUDGMENT

This civil miscellaneous appeal has been filed to set aside the judgement and decree dated 13.12.2012 in MCOP.No.1376 of 2009.

2. The learned counsel for the appellant would submit that on 11.09.2003, when the claimant was standing on the mud portion of the Thangalikuppam Road, the 1st respondent's vehicle bearing Registration No.TN-31-A-6964 has came in a rash and negligent manner and dashed against the claimant. Due to the said accident, the claimant sustained grievous injuries. Considering all the aspects the Tribunal had awarded the following compensation:

<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
1	Loss of Income	1,62,000
2	Medical Expenses	35,000
3	Pain and Sufferings	10,000
4	Transport Expenses	5,000
5	Extra Nourishment	5,000
	Total	2,17,000



3. He would also submit that the claimant had sustained severe fracture in her left foot, due to which, she was not able to day to day activities. Further, though the Medical Board had also assessed the disability of the injured at 32%, the Tribunal has taken only 25% as functional disability to award compensation by applying multiplier method, which is on the lower side. Hence, he requests this Court to enhance the same.

4. In reply, the learned counsel appearing for the respondent would submit that considering the year of accident and nature of avocation, the Tribunal had rightly awarded the compensation and hence, he requests this Court to confirm the same.

5. Heard the learned counsel for the appellant and the respondent and also perused the materials available on record.

6. In the present case, the accident was occurred in the year 2003 and at the time of accident, the injured, who was aged about 23 years, was an agricultural worker. In such view of the matter, the notional income of a sum of



Rs.3,000/- fixed by the Tribunal appears to be just and reasonable. Hence, the same stands confirmed,

7. As far as compensation awarded towards disability is concerned, in these type of cases, while applying the multiplier method, this Court will normally take 1/3 of the percentage of disability to award compensation. In such view of the matter, in the present case, it appears that the Medical Board had assessed the disability of the injured at 32% and the Tribunal had taken the functional disability at 25%, which is almost 3/4th of the disability assessed by the Medical Board and hence, the same is very just and reasonable as far as the claimant is concerned.

8. Further, the compensation awarded under the other heads are also appears to be just and reasonable. However, it appears that no amount has been awarded towards future medical expenses. Since the left foot of the injured was fractured and a steel plate has been fixed and the same has to be removed, this Court is inclined to award a sum of Rs15,000/- towards future medical expenses.



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9. Accordingly, the compensation awarded by the Tribunal is modified as follows:

<i>S.No</i>	<i>Particulars</i>	<i>Compensation awarded by the Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
1	Loss of Income	1,62,000	1,62,000
2	Medical Expenses	35,000	35,000
3	Pain and Sufferings	10,000	10,000
4	Transport Expenses	5,000	5,000
5	Extra Nourishment	5,000	5,000
6	Future Medical Expenses	Nil	15,000
7	Total	2,17,000	2,32,000

10. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.2,32,000/-. Accordingly, the award amount stands enhanced from a sum of Rs.2,17,000/- to Rs.2,32,000/-. In all other aspects, the award of the Tribunal stands confirmed.

11. In the result, this Civil Miscellaneous Appeal is partly allowed and the 2nd respondent is directed to deposit a sum of Rs.2,32,000/- along with interest and costs, less the amount already deposited, if any, within a period of 6



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weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.1376 of 2009 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Cuddalore. Further, the claimant shall pay necessary Court fee, if any, on the enhanced compensation. Thereafter, the Tribunal is directed to immediately transfer the entire amount to the bank accounts of the claimant by way of RTGS, within a period of 3 weeks from the date of deposit and from the date of receipt of the Bank details obtained for the claimant or application for withdrawal from the claimant, whichever is earlier. No costs.

01.02.2024

Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order
nsa

To:

The Motor Accident Claims Tribunal,
Special Subordinate Judge, Cuddalore.



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KRISHNAN RAMASAMY,J.

nsa

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