



C.M.A(MD)No.552 of 2012

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.552 of 2012

Kaliamoorthy

... Appellant

Vs.

1.Ravikumar

2.The Regional Manager,
United India Insurance Company,
Kumbakonam.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the fair and decreetal order dated 08.01.1999, made in M.C.O.P.No.294 of 1997 on the file of the Learned Motor Accidents Claims Tribunal (Sub-Court), Kumbakonam.

For Appellant	: Mr.V.K.Vijayaragavan
For R1	: No appearance
For R2	: Mr.J.S.Murali

JUDGMENT

The claimant has filed this Civil Miscellaneous Appeal.

2.It is a case of injury and the disability is ascertained as 68%. The claimant's little finger of right leg and the portion below the knee of left leg were



amputated. The accident happened when the petitioner was standing, the vehicle hit the petitioner and he sustained injury with 68% disability. The vehicle was insured with the 2nd respondent Insurance Company.

3. The contention of the appellant is that in spite of permanent disability, the Tribunal has granted only Rs.74,000/-, which is not a just and fair compensation. The Tribunal has held that the claimant has taken treatment in the Government Hospital and medical bills will not be provided in Government Hospital and hence without medical bills the expenses for the medical treatment cannot be considered. This Court is of the considered opinion that the said reason is erroneous. If medical bills are not submitted then the Tribunal ought to have fixed compensation approximately for the medical expenses. Atleast the Tribunal ought to have considered the fact that the petitioner underwent operation and ought to have fixed appropriate compensation for the same.

4. Further, the Tribunal has held that the injured was 60 years old at the time of accident, he was not carrying on any agricultural activities and his sons were taking care of the family and therefore, there is no loss of income to the claimant. The said reasoning of the Tribunal is erroneous. The age of 60 may be



C.M.A(MD)No.552 of 2012

WEB COPY

retirement age for employed person and not for person who are carrying agricultural activities. His sons would have assisted the petitioner in the agricultural activities. Hence declining compensation under this head ought to be interfered with. Moreover, the compensation is granted to the injured for pain and suffering and Tribunal ought to have considered for granting reasonable compensation. Therefore, this Court is of the considered opinion that the compensation granted by the Tribunal is bare minimum and is not a just and fair compensation.

5. The learned Counsel appearing for the appellant submitted if the disability of the injured is 68%, multiplier is applicable. However, the accident happened in the year 1996, the award was granted by the Tribunal in the year 1997 and the appeal is preferred in the year 2012. Therefore, there is a huge delay in preferring the appeal. Hence, this Court is of the considered opinion that instead of granting compensation under multiplier method and instead of granting interest for the compensation, it would be fair and just compensation, if Rs. 5,00,000/- is granted to the appellant / claimant as full quit.

6. Therefore, the compensation granted by the Tribunal, i.e., Rs.74,000/-



C.M.A(MD)No.552 of 2012

WEB COPY

with 12% interest is enhanced to Rs.5,00,000/- as full quit by this Court. The 2nd respondent is Insurance Company is directed to deposit Rs.5,00,000/- and costs to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any, on or before 31.07.2024. Since the policy details is not mentioned, three months time is granted to deposit the amount. If the deposit is not made on or before 31.07.2024, the compensation shall carry interest at the rate of 8% per annum. On such deposit, the claimant is permitted to withdraw the same and costs, less the amount already withdrawn by him, if any, by filing appropriate application before the Tribunal.

7. With the above said directions, the Civil Miscellaneous Appeal is allowed. No costs.

22.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Tmg

Note: Issue order copy on 24.04.2024.



C.M.A(MD)No.552 of 2012

To

WEB COPY

- 1.Motor Accident Claims Tribunal /
(Sub-Court), Kumbakonam.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A(MD)No.552 of 2012

S.SRIMATHY, J.

Tmg

C.M.A(MD)No.552 of 2012

22.04.2024