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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)Nos. 465 & 1140 of 2021

and

C.M.P(MD)Nos. 4056 & 8031 of 2021

C.M.A(MD)No.465 of 2021

1. The Director of Fire and Rescue Services,
Chennai, Tamil Nadu,
DYD, Fire Rescue Services,
Western Region, Coimbatore.

2. The Government of Tamil Nadu,
Represented by the District Collector,
Having his Office at Kokkirakulam,
Tirunelveli.

... Appellants

Vs.

Periamuthu Pandian @ Muthupandian

... Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decreetal order passed by the Motor Accident Claims Tribunal/Special Sub Court, Tirunelveli, made in M.C.O.P.No. 559 of 2016 dated 13.12.2019 praying to set aside the same.

For Appellants : M/s.S.Jeya Priya,
Government Advocate

For Respondent : Mr.T.Selvakumarn



C.M.A(MD)No. 1140 of 2021

Periamuthu Pandian @ Muthupandian

... Appellant

Vs.

1. The Director of Fire and Rescue Services,
Chennai, Tamil Nadu,
DYD, Fire Rescue Services,
Western Region, Coimbatore.

2. The Government of Tamil Nadu,
Represented by the District Collector,
Having his Office at Kokkirakulam,
Tirunelveli.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to enhance the award amount in M.C.O.P No.559 of 2016 on the file of the Motor Accidents Claims Tribunal Authority, (Special Sub Court Dealing with MCOP Cases/Special Sub Judge) Tirunelveli, dated 13.12.2019.

For Appellant : Mr.T.Selvakumarn

For Respondents : M/s.S.Jeya Priya,
Government Advocate

JUDGEMENT

C.M.A(MD)No.465 of 2021 has been filed by the Government and C.M.A(MD)No.1140 of 2021 has been filed by the claimants against the award passed in M.C.O.P No.559 of 2016 on the file of the Motor Accidents Claims Tribunal Authority, (Special Sub Court Dealing with MCOP Cases/Special Sub Judge) Tirunelveli, dated 13.12.2019.



2. Both these appeals have been preferred on the quantum only.

The contention of the claimant is that the Tribunal has taken notional fixation for monthly income as Rs.7,500/- and the same ought to be increased. It is seen that the accident occurred on 18.12.2015. As per *Syed Sadiq vs. Divisional Manager, United India Insurance reported in 2014 (1) TNMAC 459 (SC)* the notional fixation of salary is Rs.6500/- for the accident occurred in the year 2008. When the accident occurred in the year 2015, then the notional fixation of Rs.7500/- is on the lesser side. Considering the fact that the injured was an agriculturist at the time of accident, this Court is inclined to increase notional income to Rs.8,000/- and the same would be fair and just compensation.

3. Therefore, this Court is inclined to increase notional fixation is Rs.8,000/-, as monthly income.

Monthly income is	Rs. 8,000/-
ADD 25% future prospectus	Rs. 2,000/-

	Rs.10,000/-
Annual income is	Rs.10,000 x 12
	Rs.1,20,000/-
14% multiplier is to be applied	Rs.1,20,000 x 14
	Rs.16,80,000/-

Since the injured is suffering 70% functional disability, for pain and suffering the Tribunal has granted Rs.50,000/-. Therefore, this Court is inclined to double



the same, so that the claimant is getting Rs.1,00,000/-for pain and suffering. As far as the extra nourishment is concerned this Court is granting a sum of Rs.50,000/-.

4. Accordingly, the claimant is entitled for compensation as follows:

S. No.	Description	Amount awarded by		Award confirmed / enhanced / granted
		Tribunal	this Court	
1.	Loss of earning power	Rs. 11,49,750/-	Rs.16,80,000/-	Enhanced
2.	For Medical Bills	Rs. 4,44,663/-	Rs. 4,44,663/-	Confirmed
3.	For Attendance charges	Rs. 10,000/-	Rs. 10,000/-	Confirmed
4.	For Pain and suffering	Rs. 50,000/-	Rs. 1,00,000/-	Enhanced
5.	For Transport Expenses	Rs. 10,000/-	Rs. 10,000/-	Confirmed
6.	For Extra Nourishment	Rs. 30,000/-	Rs. 50,000/-	Enhanced
7.	For Loss of convenience	Rs. 40,000/-	Rs. 40,000/-	Confirmed
Total		Rs. 17,34,413/-	Rs.23,34,663/-	

Therefore, this Court is inclined to enhance a sum of Rs.23,34,663/-from Rs.17,34,413/- as compensation granted by the Tribunal.



5. In view of the said modification, these Civil Miscellaneous Appeals are disposed of. The award amount of Rs.17,34,413/- granted by the Tribunal is enhanced to **Rs.23,34,663/-** and the respondents in C.M.A(MD) No.1140 of 2021 is directed to deposit the same with 7.5% interest along with costs, within a period of Twelve weeks, from the date of receipt of copy of the order, less the amount if already deposited. On such deposing being made, the claimant is permitted to withdraw the same. The claimant is directed to pay the deficit Court fee for the enhanced compensation. No costs. Consequently, connected miscellaneous petitions are closed.

15.02.2024
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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
KSA

To

1. The Motor Accidents Claims Tribunal
cum Special Sub Court,
Tirunelveli.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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**Judgment made in
C.M.A(MD)Nos.465 &
1140 of 2021
[2/2]**

15.02.2024