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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.121 of 2024

and

C.M.P(MD)No.1820 of 2024

The Branch Manager,
M/s. The Oriental Insurance Company Limited,
No.2851/235,
Kamala Subramanian Arcade,
1st Floor, Trichy Main Road,
Thanjavur Town,
Thanjavur District.

... Appellant

Vs.

1.Mohammed Saleem

2.Raju

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the order of the Motor Accident Claims Tribunal cum Special District Court, Thanjavur made in M.C.O.P.No.831/2018 dated 29.09.2021 and allow the appeal.

For Appellant : Mr.C.Jawahar Ravindran

For Respondent No.1 : Mr.G.Kannan

For Respondent No.2 : Given Up



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JUDGEMENT

This Civil Miscellaneous Appeal is preferred by the Insurance company to set aside the order of the Motor Accident Claims Tribunal cum Special District Court, Thanjavur made in M.C.O.P.No.831/2018 dated 29.09.2021.

2. It is a case of injury. The contention of the Insurance Company is that the Medical Board has assessed that the injured has sustained disability as 90%. The Tribunal has awarded a sum of Rs.4,50,000/- under the head of disability. The Tribunal has also applied multiplier method as well as the method for permanent disability. The claimant is not entitled under both the heads, but entitled to either one method. Therefore, this Court is of the considered opinion that the claimant is either entitled to multiplier method or 90% disability calculation and not entitled to both. Hence, this Court is declining the amount which was granted under the head of permanent disability of Rs.4,50,000/-.

3. The further contention of the Insurance Company is that the injured had suffered head injury since he is not wearing helmet and for the



same this this Court is inclined to reduce a sum of Rs.20,000/- from the compensation.

4. The next contention of the Insurance Company is that the Tribunal has awarded Rs.2,00,000/-for pain and suffering, which is on the higher side. This Court is not inclined to reduce the same. As far as the compensation on the head for personal attender expenses, the same is reduced from Rs.2 Lakhs to Rs.1 Lakh. The compensation granted under the various heads are confirmed.

5. Accordingly, the claimants are entitled for compensation as follows:

S. No.	Description	Amount awarded by		Award confirmed / enhanced / granted
		Tribunal	this Court	
1.	For permanent disability	Rs. 4,50,000/-	Nil	Declined
2.	For Pain and suffering	Rs. 2,00,000/-	Rs. 2,00,000/-	Confirmed
3.	For Medical expenses	Rs.13,92,206/-	Rs.13,92,206/-	Confirmed
4.	For loss of amenities	Rs.2,00,000/-	Rs.2,00,000/-	Confirmed
5.	For future medical expenses	Rs.2,00,000/-	Rs.2,00,000/-	Confirmed
6.	For attender expenses	Rs.2,00,000/-	Rs.1,00,000/-	Reduced
7.	For Extra nourishment	Rs.1,00,000/-	Rs.1,00,000/-	Confirmed
8.	For Transport Expenses	Rs. 35,000/-	Rs. 35,000/-	Confirmed
9.	For lost the chance of marriage	Rs.1,00,000/-	Rs.1,00,000/-	Confirmed



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10.	For loss of income	Rs.24,19,200/-	Rs.24,19,200/-	Confirmed
Total		Rs. 52,96,406/-	Rs.47,46,406/-	

From Rs.47,46,406/- an amount of Rs.20,000/- is reduced for not wearing helmet. Therefore, this Court is inclined to grant a sum of **Rs.47,26,406/-**, as compensation.

6. In view of the said modification, this Civil Miscellaneous Appeal is partly allowed, and the award amount of **Rs. 52,96,406/-** granted by the Tribunal is reduced to **Rs.47,26,406/-** and the Appellant 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. The claimant is permitted to withdraw the entire compensation, less the amount if already withdrawn. No costs. Consequently, connected miscellaneous petition is closed.

15.02.2024

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

1. The Motor Accident Claims Tribunal
cum Special District Court,
Thanjavur.

2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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**Order made in
C.M.A(MD)No.121 of 2024**

15.02.2024