



C.M.A(MD)No.295 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.295 of 2024

P.Sabariraj

... Appellant

Vs.

1.K.K.Gnanaprabakaran

2.The Branch Manager,
United India Insurance Company Limited,
394/8, Rajaji Road,
Near Luccy Petrol Bulk,
Srivilliputhur – 626 125,
Virudhunagar District.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the order and decree made in M.C.O.P.No.47 of 2021, dated 01.09.2023, on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate Court, Srivilliputhur.

For Appellant : Mr.M.Thirunavukkarasu
For R1 : Mr.T.Thirupathy
For R2 : Mr.J.S.Murali

JUDGMENT

The claimant has preferred this Civil Miscellaneous Appeal.

2.It is a case of injury. The contention of the claimant is that the disability



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certificate was produced as Ex.C1 wherein it is stated that the disability is 40% but the Tribunal has taken the disability as 25% which is erroneous. But the Learned Counsel appearing for the respondent Insurance Company submitted that the Tribunal has correctly fixed the functional disability as 25%. Further the Tribunal had applied multiplier method for 25% which is erroneous. Generally, multiplier method is applicable if the permanent disability is more than 50% for the entire body. In the present case the functional disability is only 25%, hence the multiplier method is incorrect.

3. After hearing the arguments of the either side this Court is of the considered opinion that the Medical Board has fixed 40% as partial permanent disability. But the Medical Board is silent of functional disability and for this reason the Tribunal had fixed the partial permanent disability as 25%. Further the Tribunal had taken multiplier method for granting compensation. As rightly pointed out by the Learned Counsel for the Insurance Company, generally multiplier method is applicable if the permanent disability for entire body is more than 50%. This Court had perused the photo of the injured and hence treating this as peculiar case and to meet the ends of justice this Court is fixing the functional disability as 30% with multiplier method.



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4.The next contention of the claimant is that the salary is taken as Rs. 10,000/-. The injured was a B.Com., graduate and he was an employee in a private company and he was earning Rs.15,000/- per month. But the claimant has not produced any evidence to this effect. The learned Counsel appearing for the 1st respondent vehemently opposed for increasing the salary as well as for fixing the future prospects. After hearing the arguments of either side, this Court is of the considered opinion that a B.Com., graduate may not be drawing Rs.10,000/-. At the same breath the salary may not be Rs.15,000/-. If the claimant plea is accepted for Rs.15,000/-, then it should be based on some evidence. When the evidence is not produced, this Court is inclined to fix the salary as Rs.12,500/- with 40% future prospects.

5. The compensation for extra nourishment is increased from Rs.30,000/- to Rs.60,000/-. For future medical expenses, the Tribunal has awarded Rs.1,00,000/-, the same is confirmed but it will not carry any interest but the other heads will carry 7.5% interest. Except for the above, the compensation granted under other heads are confirmed.



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6.The modified compensation awarded by this Court is as under:

i.	Monthly income of the injured	Rs.12,500/-
ii.	Future prospects (40%)	Rs.5,000/-
Total		Rs.17,500/-

Sl. No.	Head of Compensation	Modified award granted by this Court	Award granted by the Tribunal
1.	Loss of future earnings (Rs.17,500/-*12*18*30/100)	Rs.11,34,000/- (enhanced)	Rs.7,56,000/-
2.	Loss of earnings during the period of treatment	Rs.30,000/- (confirmed)	Rs.30,000/-
3.	Pain and Suffering	Rs.1,00,000/- (confirmed)	Rs.1,00,000/-
4.	Extra-nourishment	Rs.60,000/- (enhanced)	Rs.30,000/-
5.	Future medical expenses	Rs.1,00,000/- (confirmed)	Rs.1,00,000/-
6.	Transportation	Rs.5,000/- (confirmed)	Rs.5,000/-
7.	Damage to articles	Rs.1,000/- (confirmed)	Rs.1,000/-
8.	Loss of amenities	Rs.50,000/- (confirmed)	Rs.50,000/-
9.	Attendant Charges	Rs.26,500/- (confirmed)	Rs.26,500/-
Enhanced Total compensation granted by this Court		Rs.15,06,500/- (enhanced)	Total compensation awarded by Tribunal = Rs.10,98,500/-

7. The 2nd respondent Insurance Company is directed to deposit Rs. 15,06,500/- (i.e., Rs.14,06,500/- with 7.5% interest per annum and Rs.1,00,000/- without interest) and costs to the credit of M.C.O.P., on the file of claims



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Tribunal, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the same with proportionate accrued interests and costs, less the amount already withdrawn by them, if any, by filing appropriate application before the Tribunal.

8.With the above said observations, the Civil Miscellaneous Appeal is partly allowed. No costs.

26.03.2024

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

Tmg

To

1.Motor Accident Claims Tribunal /
Chief Judicial Magistrate Court, Srivilliputhur.

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



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S.SRIMATHY, J.

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