



C.M.A.(MD) No.315 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.11.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.(MD)No.315 of 2023

K.Balasubramanian
Appellant

...

VS.

1.V.Muthupandi,

2.The Divisional Manager,
M/s.National Insurance Company Limited,
having its office at Tallakulam,
Madurai Town,
Madurai.

3.P.Selvam,

4.The Divisional Manager,
M/s.The Oriental Insurance Company Ltd.,
having its office at
39/40, Workshop Road,
Sardha Shopping Centre,
Simmakal,
Madurai – 625 001.
Respondents

...



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PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and award, dated 03.08.2021, made in M.C.O.P.No.09 of 2018, on the file of the Motor Accidents Claims Tribunal/Subordinate Court, Aruppukkottai.

For appellant	: Mr.M.Jothi Basu
For Respondent	
for R1 & R3	: given up
for R2	: Ms.P.Malini
for R4	: Mr.E.Chandrasekaran

J U D G M E N T

Not being satisfied with the award passed in M.C.O.P.No.9 of 2018 dated 03.08.2021 on the file of the Motor Accidents Claims Tribunal/Sub Court, Aruppukkottai, this Civil Miscellaneous Appeal has been filed by the claimant for enhancement of compensation.

2. Heard arguments of the learned counsels for both sides and perused the relevant records.

3. As the respondent Nos.1 and 3 remained absent before



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the Tribunal, the learned counsel for the appellant has given up the respondent Nos.1 and 3 herein.

4. At trial, common evidence was recorded in M.C.O.P.No.9 of 2018 along with M.C.O.P.No.10 of 2018. On the side of the claimants, three witnesses were examined and 34 documents were marked. On the side of the second respondent/insurance company, one witness was examined and one document was marked. Ex.R1 is the copy of the insurance policy issued by the second respondent pertaining to the car (TN-58-AH-2356). The disability certificate of the claimant, which is issued by the Medical Board, is Ex.C1.

5. Upon consideration, the Tribunal has fastened the liability on the first respondent and has directed the second respondent/Insurance Company to pay the compensation amount awarded by the Tribunal as listed hereunder:

Sl. No.	Description	Amount awarded by the Tribunal
1.	For Partial Permanent Disability	Rs. 2,95,000/-
2.	For Extra Nourishment	Rs. 10,000/-



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Sl. No.	Description	Amount awarded by the Tribunal
3.	For Pain and sufferings	Rs. 25,000/-
4.	For Transport charges	Rs. 4,000/-
5.	For Medical expenses	Rs. 1,62,587/-
6.	For Future Medical Expenses	Rs. 30,000/-
Total		Rs. 5,26,587/-

6. The learned counsel for the appellant would, vehemently, contend that the claimant was 48 years old at the time of the accident that occurred in the year 2017. At that time, the claimant was doing business of hallow blocks manufacturing and was earning a sum of Rs.1,00,000/- p.m. Due to the accident, that occurred on 29.08.2017, while he was travelling in the motorcycle, he was hit by a car that belongs to the first respondent, he sustained serious injuries. It is his further arguments that for the loss of income during the treatment period, no amount was awarded by the Tribunal.

7. From the medical records/Exs.P12 to P18 and P32 to P34, it appears that the claimant suffered fracture on his right leg and he underwent surgery and implants were fixed over his right leg and



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during the surgery, plates and screws were fixed, due to which, the Medical Board fixed his disability at 59%. The Tribunal has awarded a sum of Rs.2,95,000/- for partial permanent disability by awarding Rs.5,000/- per percentage.

8. Upon consideration of the injury suffered and effects of the injury upon the claimants, this Court deems it fit to fix for partial permanent disability at Rs.6,000/- per percentage. Therefore, an amount of Rs.59,000/- is awarded for the partial permanent disability in addition to the amount already awarded by the Tribunal.

9. The claimant/P.W.1 has stated that he was doing hollow block business and was earning a sum of Rs.1,00,000/- p.m. As no document is filed to substantiate the said details, his notional income is fixed at Rs.15,000/- p.m. Upon consideration of the fracture sustained over the claimant's right leg and the treatment details, this Court deems it fit to grant a sum of Rs.75,000/- for loss of income during treatment period (Rs.15,000/- x 5 months). As regards the other heads, the amount awarded by the Tribunal appears to be reasonable and acceptable. Thus, the compensation



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awarded by the Tribunal is reworked and tabulated hereunder.

S. No	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	Partial Permanent Disability	Rs. 2,95,000/-	Rs. 3,54,000/-	Enhanced
2	Extra Nourishment	Rs. 10,000/-	Rs. 10,000/-	Confirmed
3	Pain and sufferings	Rs. 25,000/-	Rs. 25,000/-	Confirmed
4	Transportation	Rs. 4,000/-	Rs. 4,000/-	Confirmed
5	Medical expenses	Rs. 1,62,587/-	Rs. 1,62,587/-	Confirmed
6	Future Medical Expenses	Rs. 30,000/-	Rs. 30,000/-	Confirmed
7	Loss of income	---	Rs. 75,000/-	Granted
		Rs. 5,26,587/-	Rs. 6,60,587/-	Enhanced by Rs.1,34,000/-

10. In the result,

(i) The Civil Miscellaneous Appeal stands partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.5,25,587/- to Rs.6,60,587/-.

(iii) The Insurance Company/second respondent is directed to deposit the enhanced compensation amount i.e., Rs.6,60,587/- (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the



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date of deposit and costs to the credit of M.C.O.P.No.9 2018 on the file of Motor Accidents Claims Tribunal /Sub Court, Aruppukkottai within a period of eight (8) weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the claimant/appellant is permitted to withdraw the award amount along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal.

(v) The claimant/appellant is directed to pay the Court fee for the enhanced compensation amount, if required.

(vi) The Tribunal below shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimant.

19.11.2024

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

To

- 1.The Motor Accidents Claims Tribunal / Sub Court, Aruppukkottai.
- 2.The Section Officer,



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V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

R.KALAIMATHI,J

apd



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