



C.M.A(MD)No.164 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 31.01.2024

CORAM

THE HON'BLE MR.JUSTICE S.SRIMATHY

C.M.A(MD)No.164 of 2022

Balu

... Appellant

Vs.

1.Saravanan

2.The United Indian Insurance Company
Limited,

represented through the Divisional Manager,
having its Office at KAR Buildings,
R.S.Road, Dindigul-624 001.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, as against the fair order and ex-order passed in M.C.O.P.No. 219 of 2018 (C.N.R.No.TNDG050008132018) on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, (to deal with MCOP cases), Dindigul, dated 16.09.2021.

For Appellant	: Mr.R.Thangapandian
For R1	: Mr.C.M.Arumugam
For R2	: Mr.G.Prabhu Rajadurai



JUDGMENT

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The present Civil Miscellaneous Appeal is filed by the claimant.

2.It is a case of injury. At the time of accident, the claimant has sustained abrasion over the anteromedial of left leg, contusion over the chin, stabbed injury on tongue and sutured, front lower 4 teeth and 4 upper teeth are shaking and pain all over the body. For the said injury the Tribunal had fixed compensation of Rs. 47,570/-. The liability is fixed on the owner of the vehicle and not on the Insurance Company since the Driver was having only LMV license and was not having any badge.

3. It is a settled proposition if Driver is having LMV license, he is eligible to drive heavy vehicles until 7500 kg. Therefore, the Tribunal has erred in holding that the Driver is not having valid driving license with badge and consequently the Insurance Company is not liable. Therefore, this Court is inclined to interfere in the impugned order.

4. As far as the enhancement of income is concerned, the Tribunal has granted the loss of income by taking the monthly income as Rs.6,500/-. It is seen



that the injured was doing Tamarind and Vegetable business and the accident happened on 29.12.2017. The minimum notional income for any accident prior to 2008 is Rs.6,500/-. In the present case since the accident happened in the year 2017, the minimum notional income ought to be fixed as Rs.8,000/-. Therefore, the notional income fixed by the Tribunal is increased to Rs.8,000/- by this Court. There is evidence that the petitioner claimant was under treatment for three months and hence the loss of income ought to be assessed for three months. As far as the functional disability is concerned the Tribunal had held there is no proof for functional disability. It is seen that the claimant is doing business of Milk and Tamarind. The nature of injury is on the face and therefore this Court is of the considered opinion that the Tribunal is right in holding that there is no functional disability

5. For extra nourishment the Tribunal had granted Rs.1,000/-, the same is increased to Rs.3,000/- by this Court. For pain and sufferings, the Tribunal has awarded only Rs.10,000/- but this Court is increasing it as Rs.15,000/-. For loss of amenities, the Tribunal has awarded only Rs.10,000/- but this Court is increasing it to Rs.15,000/-. For attender charges, the Tribunal has awarded only Rs.2,000/- but this Court is increasing it to Rs.5,000/-.



6. The modified award amount granted by this Court is tabulated under:

Sl. No.	Heads	Award granted by Tribunal	Award granted by this Court	Enhanced / Confirmed / Reduced
1.	Loss of Income	Rs.15,000/- (Rs.15,000 *1)	Rs.24,000/- (Rs.8,000/-*3)	Enhanced
2.	Medical Expenses	Rs.8,569/-	Rs.8,569/-	Confirmed
3.	Transportation Charges	Rs.1,000/-	Rs.1,000/-	Confirmed
4.	Extra Nourishment	Rs.1,000/-	Rs.3,000/-	Enhanced
5.	Damages to clothing and Articles	Rs.1,000/-	Rs.1,000/-	Confirmed
6.	Pain and Sufferings	Rs.10,000/-	Rs.15,000/-	Enhanced
7.	Loss of Amenities	Rs.10,000/-	Rs.15,000/-	Enhanced
8.	Attender Charges	Rs.1,000/-	Rs.5,000/-	Enhanced
	Gross Total	Rs.47,569/- rounded to Rs.47,570/-	Rs.72,569/- rounded to Rs.72,570/-	Enhanced

Therefore, this Court is enhancing the award amount granted by the Tribunal from Rs.47,570/- to Rs.72,570/- as stated supra.

7.The 2nd respondent Insurance Company is directed to deposit Rs.72,570/- (Rupees Seventy Two Thousand Five Hundred and Seventy only) with interest at the rate of 7.5% per annum and costs to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the same with accrued interests and costs, less



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the amount already withdrawn by him, if any, by filing appropriate application before the Tribunal.

8. Hence, the Civil Miscellaneous Appeal is allowed on the above terms.

No costs.

31.01.2024

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

Tmg

To

1. Motor Accident Claims Tribunal,
Special Subordinate Judge,
Dindigul.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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