



C.M.A(MD)No.256 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.256 of 2022

Packiyaraj

... Appellant

Vs.

1.Balakrishnan

2.The Branch Manager,
National Insurance Co-operative Limited,
Tenkasi Road, Rajapalayam,
Virudhunagar District.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the order and decree, dated 27.09.2021, made in M.C.O.P.No.205 of 2019, on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate, Srivilliputtur.

For Appellant	: Mr.M.Thirunavukkarasu
For R1	: No appearance
For R2	: Mr.R.Rajamani

JUDGEMENT

The claimant has filed this Civil Miscellaneous Appeal.

2.It is a case of injury. Due to accident, the claimant's right leg from knee was amputated. The contention of the claimant is that the Tribunal has fixed



notional income as Rs.7,500/- per month. The minimum notional income is fixed as Rs.8,000/- per month. In the particular case, the claimant is having license and he is a Driver by avocation. Therefore, this Court is of the considered opinion that Rs.9,000/- per month would be the proper fixation of notional income with 40% for the future prospects which will come around Rs.12,600/- and this would be the appropriate fixation for future prospects.

3. As far as the pain and suffering is concerned, the Tribunal has fixed Rs. 50,000/-, which is on lower side. Further the Tribunal has not granted for loss of amenities. This Court is of the considered opinion rather than increasing the amount under pain and suffering, it is sufficient to grant compensation under loss of amenities. Hence, if an additional of Rs.50,000/- is added under loss of amenities the same would be just and fair compensation. The amount granted under other heads are confirmed. If the Insurance Company has not deposited, this Court is directing the Insurance Company to deposit the compensation within four weeks including the enhanced compensation. The modified compensation awarded by this Court is as under:

i.	Monthly income of the injured	Rs.9,000/-
ii.	Future prospects (40%)	Rs.3,600/-
Total		Rs.12,600/-



Sl.No.	Head of Compensation	Modified award granted by this Court	Award granted by the Tribunal
1.	Functional Disability (Rs.12,600/- * 12 * 17* 77/100)	Rs.19,79,208/- (enhanced)	Rs.11,78,100/-
2.	Medical Expenses	Rs.2,44,591/- (confirmed)	Rs.2,44,591/-
3.	Pain and Sufferings and Loss of Amenities	Rs.1,00,000/- (enhanced)	Rs.50,000/- (Pain and Suffering)
4.	Transportation	Rs.10,000/- (confirmed)	Rs.10,000/-
5.	Attender Charges	Rs.10,000/- (confirmed)	Rs.10,000/-
Enhanced Total compensation granted by this Court		Rs.23,43,799/-	Total compensation awarded by Tribunal = Rs.14,97,691/-

4.The 2nd respondent / Insurance Company is directed to deposit the sum of **Rs.23,43,799/-** with interest at the rate of 7.5% per annum, 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 being made, the claimant is permitted to withdraw the same with accrued interests and costs, less the amount already withdrawn by him, if any, by filing appropriate application before the Tribunal.



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5. With the above said directions, the Civil Miscellaneous Appeal is partly allowed. No costs.

12.02.2024

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

Tmg

To

1.Motor Accident Claims Tribunal /
Chief Judicial Magistrate, Srivilliputtur.

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



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S.SRIMATHY, J.

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