



C.M.A.(MD) No.369 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2024

CORAM

JUSTICE N. SESHASAYEE

and

JUSTICE P.VADAMALAI

C.M.A.(MD) No.369 of 2021

R.Gokul

... Appellant/ Petitioner

Vs.

1.M.Alaguraja

2.S.Mariajothi

3.The Chola Mandalam Ms General
Insurance Company Limited,
Rep., through the Branch Manager,
Having its office at 2nd Floor,
Dare House, No.2, N.S.C.Bose Road,
Chennai-600 001.

... Respondents/ Respondents

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the order dated 04.01.2020 passed in M.C.O.P.No.308 of 2017 on the file of the Motor Accident Claims Tribunal at Dindigul.

For Appellant : Mr.M.P.Senthil

For R3 : Mrs.K.R.Shivashankari

For RR1 & 2 : No appearance



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JUDGMENT

(Judgment of the Court was delivered by N.Seshasayee, J.)

This appeal is preferred by the claimant seeking enhancement of compensation for the lost of his right hand in a road accident that took place on 18.08.2015.

2. The accident is not disputed and the fact that the appellant's right hand was amputated due to the injury suffered in the accident is also not disputed. The Medical Board has assessed the disability at 90% and the Tribunal has been far too insensitive in assessing the compensation payable under the head of “permanent disability” when it determined a paltry sum of Rs.7,00,000/-. After adding other conventional heads, far too parsimoniously and niggardly, the Tribunal had the mechanism to fix the compensation at Rs.7.74 Lakhs. The breakup is as below:

For permanent Disability	Rs.7,00,000/-
For pain and sufferings	Rs. 50,000/-
For attendant charges	Rs. 3,000/-
For loss of personal belongings and clothings	Rs. 3,000/-
Transport charges	Rs. 3,000/-
Extra Nourishment	Rs. 15,000/-
Total	Rs.7,74,000/-

One great service the Tribunal did is awarding 7.5% interest and that is the only saved feature of the award.



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3. The appellant herein was a Physical Director and also a Cricket Coach and was employed in SSM Institute of Engineering and Technology, Palani Road, Dindigul, at the relevant time, and was earning Rs.25,000/- a month as per Ext.P.17-salary certificate issued by the college. In addition, he was also working with Dindigul District Cricket Association, which paid him monthly salary of Rs.5,000/- as per Ext.A.22. In addition, he is also said to be earning during private summer camps he conducted.

4. We heard both sides and as outlined earlier, the Tribunal has been shockingly insensitive to the sufferings of the victim of this accident. This Court chooses to hold that the functional disability of the appellant is 100%. It also chooses to fix a reasonable salary of (*)**Rs.24,000/-** as his monthly salary. At the said rate and adding (*)**40%** to his future prospects of increase in income and applying 16 as the multiplier (*)**[24,000 x 12 = 2,88,000 + 1,15,200 (40% of 2,88,000) = 4,03,200 x 16 = 64,51,200]**, this Court arrives at a compensation of **Rs.64,51,200/- (Sixty Four Lakhs Fifty one thousand and two hundred Rupees only)** under the head of “functional disability”. It also chooses to increase the compensation payable under the head “pain and sufferings” at Rs.1,50,000/-; “attendant charges” at Rs.50,000/-; “loss of amenity” at Rs.25,000/-; and “transportation charges” at Rs.10,000/-. Now the award will look as below:



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Sl. No.	Description	Amount awarded by the Tribunal (in Rupees)	Amount awarded by this Court (in Rupees)	Confirmed or awarded or enhanced
1	For permanent disability	7,00,000	(*)64,51,200	Enhanced
2	For pain and sufferings	50,000	1,50,000	Enhanced
3	Loss of amenity	Nil	25,000	Awarded
4	For loss of personal belongings and clothings	3,000	3,000	Confirmed
5	Attendant charges	3,000	50,000	Enhanced
6	Transport charges	3,000	10,000	Enhanced
7	Extra Nourishment	15,000	15,000	Confirmed
8	Total	7,74,000	(*)67,04,200	Enhanced

5. This Court now directs the Insurance Company to deposit a sum of **(*)Rs. 67,04,200/- (Sixty Seven Lakhs four thousand and two hundred Rupees only)** with interest at 7.5%.

6. Learned counsel for the Insurance Company informs this Court that it had already deposited the entire compensation amount as awarded by the Tribunal.

7. To end, this Appeal is allowed enhancing the compensation from Rs. 7,74,000/- to **(*)Rs.67,04,200/-** with interest at the rate of 7.5% p.a.from the date of claim petition till the date of realization. The third respondent-Insurance Company is now required to deposit the balance sum within a period of eight weeks from the date on which this judgment is hosted in the official website. On such deposit, the



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appellant is entitled to withdraw the entire sum along with proportionate accrued interest and cost, less the amount already withdrawn, if any, as per the apportionment and order made by the Tribunal . If any additional Court fee is required to be paid, the Registry is required to collect the same. No costs.

Sd/-

Assistant Registrar

**(*)Corrected as per the order of this court dated
29.07.2024 made in CMA(MD).369 of 2021.**

Sd/-

Assistant Registrar(CS III)

// True Copy //

/08/2024

Sub Assistant Registrar()

ABR

To

To be substituted to the order which is already despatched on 15.07.2024

The Judge,
Motor Accident Claims Tribunal,
Dindigul.

Copy To

The Section Officer,
VR Section,
Madurai Bench Of Madras High Court,
Madurai.



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+1 CC to M/s.M.P.SENTHIL, Advocate (SR-34323[F] dated 12/07/2024)

+1 CC to M/s.K.R.SHIVASHANKARI, Advocate (SR-34578[F] dated 12/07/2024)

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SL(12.07.2024)/ 6P/ 6C

MK(14.08.2024)/ 6P/ 6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.