



C.M.A.(MD) No.847 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.10.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.847 of 2024

and

C.M.P.(MD)No.12939 of 2024

S.Pazhaniappan.

... Appellant

Vs.

1.S.Kannan,
2.HDFC ERGO General Insurance Company Ltd.,
No.111, Achutha,
Bharathidasan Salai,
Contonment,
Trichirappalli.

... Respondents

Prayer: Civil Miscellaneous Appeals filed Section 173 of the Motor Vehicles Act, 1988, against the award dated 30.08.2023 passed in M.C.O.P.No.453 of 2018, on the file of the Motor Accidents Claims Tribunal, Sub Court, Kulithalai.

For Appellant : Mr.N.Sudhagar Nagaraj

For Respondents

for R1 : Dispensed with
for R2 : Mr.Shylappa Kalayan



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JUDGMENT

The instant appeal has been filed seeking enhancement of compensation.

2. Since the findings on liability and negligence are not in dispute, the facts leading to the filing of the claim petition are unnecessary for the disposal of this case.

3. The learned counsel for the appellant submitted that though the appellant suffered fractures on both bones in right leg and injuries in both hands, the Tribunal had not awarded the compensation by adopting multiplier method as the appellant was doing physical labour as an agricultural coolie. The compensation under all the heads is meagre and hence, prayed for enhancement.

4. Notice to the first respondent was dispensed with *vide* order of this Court dated 22.07.2024 as he remained *ex parte* before the Tribunal.

5. The learned counsel for the second respondent, per contra,



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submitted that the appellant had not established the functional disability and therefore, the compensation by adopting the percentage method cannot be faulted; and that the compensation under the other heads is also reasonable and prayed for dismissal of the appeal.

6. The only point for consideration in the instant appeal is '*whether the quantum of compensation awarded by the Tribunal is just and reasonable*'

7. Admittedly, the appellant suffered fractures in both the bones on his right leg and injuries in both hands. However, there is no evidence to suggest that he had suffered functional disability. Therefore, the finding of the Tribunal that there is no functional disability cannot be faulted. However, it is seen from the records that the appellant had undergone three surgeries and had taken treatment as an inpatient in five spells, for a total period of 35 days. Considering the said fact and the age of the appellant, this Court is of the view that the compensation under the other heads can be enhanced.

8. The appellant was 50 years at the time of accident. Considering



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the year of accident, his age and his avocation, this Court is of the view that the notional income can be fixed at Rs.12,000/- p.m. The evidence suggests that he could not pursue his avocation for a period of six months. Therefore, the compensation under the head 'loss of income' can be enhanced to Rs.12,000/- x 6 = Rs.72,000/-.

9. The compensation under the head 'pain and sufferings' can be enhanced to Rs.75,000/-. The 'attendant charges' can be enhanced to Rs.15,000/-. The 'transportation charges' can be enhanced to Rs.10,000/-. Thus, the compensation awarded by the Tribunal is enhanced as follows:

<i>Sl. No</i>	<i>Description</i>	<i>Amount awarded by the Tribunal</i>	<i>Amount awarded by this Court</i>	<i>Award confirmed, enhanced or granted</i>
1	Disability	Rs. 1,25,000/-	Rs. 1,25,000/-	Confirmed
2	Loss of income	Rs. 24,000/-	Rs. 72,000/-	Enhanced
3	Medical expenses	Rs. 3,26,979/-	Rs. 3,26,979/-	Confirmed
4	Pain and sufferings	Rs. 25,000/-	Rs. 75,000/-	Enhanced
5	Extra nourishment	Rs. 15,000/-	Rs. 15,000/-	Confirmed
6	Attendant charges	Rs. 5,000/-	Rs. 15,000/-	Enhanced
7	Transportation charges	Rs. 5,000/-	Rs. 10,000/-	Enhanced
Total		Rs. 5,25,979/-	Rs. 6,38,979/-	Enhanced by Rs.1,13,000/-



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10. The second respondent/Insurance Company shall deposit the enhanced compensation amount of Rs.6,38,979/- (Rupees Six Lakhs Thirty Eight Thousand Nine Hundred and Seventy Nine only) together with interest at 7.5% p.a. from the date of the claim petition till the date of realization (excluding the period of dismissal for default if any) and proportionate costs, less the amount already deposited, if any, within a period of four (4) weeks from the date of receipt of a copy of this order.

11. On such deposit, the appellant/claimant is permitted to withdraw the award amount with interest and costs, less the amount already withdrawn, if any, by filing appropriate application before the Tribunal. The appellant/claimant is directed to pay the necessary Court Fee on the enhanced amount.

12. In the result, this Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

15.10.2024

Index: Yes/ No
NCC: Yes / No
Speaking Order / Non-Speaking Order
apd



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To:

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- 1.The Motor Accidents Claims Tribunal, Sub Court, Kulithalai.
- 2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

apd

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