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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.06.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.299 of 2016

P.Jeganathan(Died)

2. J.Pasuvathi

3. J.Jeyaganesh

4. Malathi

... Appellants

[Appellants 2 to 4 are brought on record as LR's of the deceased Sole Appellant vide Order of this Court, dated 19.06.2024.]

Vs.

1. V.Poonkodi

2. M/s. Shri Ram General Insurance Company Limited,
Through its Divisional Manager,
Divisional Office, H.A.K.Road,
Nearby ICICI Bank Limited,
Chinnachokikulam, Madurai -625 002.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to allow this appeal and enhance the award amount in M.C.O.P.No.30 of 2013 on the file of the Motor Accident Claims Tribunal, (Special Sub Judge for M.C.O.P Cases), Madurai, dated 20.11.2013.

For Appellants : Mr.A.Saravanan

For Respondents : Mr.D.Sivaraman, for R-2



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JUDGEMENT

The injured had preferred this Civil Miscellaneous Appeal for enhancing the award amount granted in M.C.O.P.No.30 of 2013 on the file of the Motor Accident Claims Tribunal, (Special Sub Judge for M.C.O.P Cases), Madurai, dated 20.11.2013. Pending the present appeal the injured died and his legal heirs are impleaded as parties.

2. It is a case of injury and at the time of accident the injured was working as Watchman.

3. The contention of the claimant is that since the injured has sustained 83% disability the same should be considered as permanent disability. However, the Tribunal has taken Rs.2,000/- for each percentage of the disability and granted only Rs.1,00,000/- for loss of earning power and aggrieved over the same the present appeal is preferred.

4. After considering the injury the Tribunal had fixed the permanent disability as 83%, but the Tribunal had not assessed the functional disability. In the accident the right leg of the injured was amputated. The injured was working as watchman, hence the functional disability of the injured ought to be taken as 70% functional disability, hence multiplier method ought



to be adopted. At the time of accident, the injured was 55 years old and multiplier 11 is an appropriate.

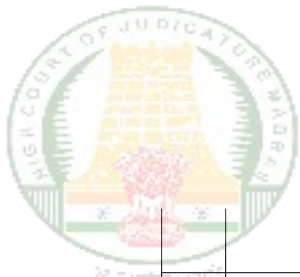
5. As far as notional income is concerned the injured was working as Watchman at the time of accident. The accident was occurred on 15.08.2011. As per *Syed Sadiq's case*, the notional income ought to be fixed as Rs.6,500/- for the accident happened in the year 2008. In the present case, the accident was occurred in the year 2011. Therefore, this Court is fixing appropriate notional income as Rs.7,000/- and future prospectus as 10%.

Monthly salary is	Rs.7,000/-
ADD 10% future prospectus	Rs. 700/-

	Rs.7,700/-
11 multiplier should be applied	Rs.7,700 x 11 x 12
	Rs.10,16,400/-

4. Accordingly, the claimants are entitled for compensation as follows:

S. No.	Description	Amount awarded by		Award confirmed / enhanced / granted
		Tribunal	this Court	
1.	For Transport to hospital	Rs. 2,000/-	Rs. 2,000/-	confirmed
2.	For Extra nourishment	Rs. 15,000/-	Rs. 15,000/-	confirmed
3.	For Loss of earning power	Rs.1,00,000/-	Rs.10,16,400/-	enhanced
4.	For Medical expenses as per Ex.P.4 & 7	Rs. 35,350 /-	Rs. 35,350/-	confirmed
5.	For Pain and sufferings	Rs. 25,000/-	Rs. 25,000/-	confirmed



6.	For Partial permanent disability (Rs.2,000 x 61%)	Rs.1,66,000/-	Rs.1,22,000/-	reduced
Total		Rs.3,43,350/-	Rs.12,15,750/-	

5. Accordingly, this CMA is partly allowed and this Court is enhancing the compensation granted by the Tribunal from Rs.3,43,350/- to a sum of Rs.12,15,750/-. The Insurance Company is directed to deposit the entire compensation amount with 7.5% interest along with costs, within a period of 12 weeks from the date of receipt of a copy of the order, less the amount already deposited. The 2nd claimant is entitled for a sum of Rs.8,15,750/- and the 3 & 4 claimants are entitled for a sum of Rs.2,00,000/-each, as compensation. On such deposit being made, the claimants are entitled to withdraw the same, as per Law. Since this Court is enhancing the compensation, the claimants are liable to pay the balance Court fee. No Costs.

26.06.2024

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

1. The Motor Accident Claims Tribunal/
Special Sub Judge for M.C.O.P Cases,
Madurai.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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**Judgment made in
C.M.A(MD)No.299 of 2016**

26.06.2024