



C.M.A.(MD) No.994 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.994 of 2023

K.Sudhakar.

... Appellant

Vs.

1.P.Arivalagan,
2.M/s.Oriental Insurance Co. Ltd.,
Through its Divisional Manager,
CBO I, 39/40, Sharatha Complex,
Work Shop Road, Madurai,
Policy issued at 94-E,
South Kaliyamman Kovil Street,
Main Road, Canara Bank Near,
Pattukottai – 614 601.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, 1988, to enhance the compensation amount passed in M.C.O.P.No.184 of 2018 dated 30.09.2019 on the file of the Motor Accidents Claims Tribunal/Chief Judicial Magistrate, Madurai.

For Appellant	: Mr.K.Kumaravel
For Respondents	:
for R1	: Ex parte
for R2	: Mr.A.Ilango



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JUDGMENT

The instant appeal has been filed seeking enhancement of compensation.

2. The manner of the accident and the liability of the second respondent to pay the compensation are not in dispute.

3. It is the contention of the learned counsel for the appellant/claimant that though the appellant had suffered 55% partial permanent disability, the Tribunal had not awarded the compensation by adopting the multiplier method and the compensation under the other heads is meagre.

4. The first respondent remained ex parte before the Tribunal and hence notice to the first respondent is dispensed with.

5. The learned counsel for the second respondent/Insurance Company, per contra, submitted that in the absence of any evidence to show that the claimant was working and he had suffered functional



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disability, the Tribunal was right in computing the compensation by adopting the percentage method and prayed for dismissal of the appeal.

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

7. The medical records produced on the side of the appellant/claimant and the report of the Medical Board suggest that the appellant had suffered partial permanent disability at 55%. It is admitted by both the learned counsel that though the permanent disability was shown as 62% in the said report, it was a mistake in calculation and the actual disability suffered by the appellant is 55%. There is no evidence to show that the appellant had suffered functional disability in any manner so as to adopt the multiplier method. However, this Court is of the view that considering the year of accident, Rs.5,000/- can be awarded per percentage of disability. Hence, the compensation under the head 'Partial permanent disability' can be enhanced to $55 \times \text{Rs.5,000/-} = \text{Rs.2,75,000/-}$.

8. The appellant/claimant had suffered frontal bone and facial bone



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fracture, injuries in the right temporal region and an injury in the eye.

Considering the facts and circumstances of this case and considering the injuries and age of the appellant, this Court is of the view that the compensation under the head 'Pain and suffering' can be awarded at Rs. 50,000/-.

9. Though the appellant/claimant had not produced any documents to show that he is likely to incur future medical expenses considering the nature of treatment taken by him and the disability suffered by him, the 'Future medical expenses' cannot be ruled out. Hence, this Court is of the view that Rs.50,000/- can be granted as compensation under the said head.

10. The award under the head transport to hospital, extra nourishment and attendant charges can be enhanced to Rs.15,000/- each. The compensation awarded under the heads 'loss of income' and 'Medical expenses' is confirmed. Hence, this award of compensation is enhanced as follows:



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Sl. No	Description	Amount awarded by the Tribunal	Amount awarded by this Court	Award confirmed, enhanced or granted
1	Loss of Income	Rs. 32,000/-	Rs. 32,000/-	Confirmed
2	Partial permanent disability(55 x Rs.5,000/-)	Rs. 2,20,000/-	Rs. 2,75,000/-	Enhanced
3	Medical expenses	Rs. 4,46,300/-	Rs. 4,46,300/-	Confirmed
4	Pain and sufferings	Rs. 15,000/-	Rs. 50,000/-	Enhanced
5	Transport to Hospital	Rs. 5,000/-	Rs. 15,000/-	Confirmed
6	Extra Nourishment	Rs. 4,000/-	Rs. 15,000/-	Enhanced
7	Attendant charges	Rs. 2,000/-	Rs. 15,000/-	Enhanced
8	Future medical expenses	---	Rs. 50,000/-	Granted
Total		Rs.7,24,300/-	Rs.8,98,300/-	Enhanced by Rs.1,74,000/-

11. The second respondent/Insurance Company is directed to deposit the enhanced compensation of Rs.8,98,300/- (Rupees Eight Lakhs Ninety Eight Thousand and Three Hundred only) together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of realization (excluding the period of dismissal for default if any) and 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.

12. On such deposit, the appellant/claimant is entitled to withdraw his share amount together with proportionate interest and costs, less the



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amount already withdrawn, if any, by filing an appropriate application before the Tribunal. The appellant/claimant is directed to pay the necessary Court Fee, if any, on the enhanced amount.

13. In the result, this Civil Miscellaneous Appeal is partly allowed.

No costs.

02.09.2024

Index: Yes/ No

NCC: Yes / No

Speaking Order / Non-Speaking Order
apd

To:

1. Motor Accidents Claims Tribunal/Chief Judicial Magistrate,
Madurai.

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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