



C.M.A(MD)No.142 of 2015

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.04.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.142 of 2015

Shanthi

... Appellant

Vs.

1.Raja

2.The Manager,  
Reliance General Insurance Company  
Limited,  
"Shristi Mahal", 2<sup>nd</sup> Floor,  
New No. 41, 8<sup>th</sup> Street,  
Tatabad, Coimbatore.

... Respondents

(R-1 was set exparte before the Tribunal.  
Hence, notice may be given up against R-1)

**PRAYER:** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the judgement and decreetal order, dated 24.09.2012, made in M.C.O.P.No.78 of 2011, on the file of the Motor Accident Claims Tribunal ( I-Additional District and Sessions Judge (PCR)), Thanjavur.

For Appellant : Mr.S.Deenadhayalan  
R1 : Exparte  
For R2 : Mr.S.Srinivasa Raghavan

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## **JUDGMENT**

The claimant has filed this Civil Miscellaneous Appeal for enhancement.

2.It is a case of injury. The contention of the claimant is that the Medical Board has given a certificate for 47% disability but the Tribunal has reduced the same to 25% without any basis and without any evidence. However, the Learned Counsel appearing for the 2<sup>nd</sup> respondent submitted that the Tribunal has discussed the same in 7<sup>th</sup> paragraph of the impugned order wherein it is stated even though the disability certificate is produced, the same is not substantiated by examining the author of the certificate. It is seen that the Tribunal had fixed the disability by taking the age of the injured. The injured is aged 64 years, hence the Tribunal had fixed the functional disability as 25%. Therefore, this Court is not inclined to interfere in the functional disability which was fixed by the Tribunal based on the age of the claimant.

3. The next contention of the claimant is that for each percentage of disability, the Tribunal has fixed only Rs.1,000/- (i.e. Rs.1,000/- for 1%). Hence, this Court is increasing the same to Rs.3000/- for each percentage of disability (i.e,Rs.3,000/- for 1%). The compensation granted by the Tribunal under other



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heads are confirmed.

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4.The modified compensation granted by this Court is as under:

| S1. No. | Heads                 | Award granted by Tribunal                  | <b>Award granted by this Court</b>         | Enhanced / Confirmed / Reduced |
|---------|-----------------------|--------------------------------------------|--------------------------------------------|--------------------------------|
| 1.      | Loss of Income        | Rs.42,000/-                                | Rs.42,000/-                                | Confirmed                      |
| 2.      | Functional Disability | Rs.25,000/-<br>(Rs.1,000 * 25)             | Rs.75,000/-<br>(Rs.3,000 * 25)             | Enhanced                       |
| 3.      | Pain and Sufferings   | Rs.25,000/-                                | Rs.25,000/-                                | Confirmed                      |
| 4.      | Transport Expenses    | Rs.5,000/-                                 | Rs.5,000/-                                 | Confirmed                      |
| 5.      | Extra Nourishment     | Rs.10,000/-                                | Rs.10,000/-                                | Confirmed                      |
| 6.      | Medical Expenses      | Rs.877/-                                   | Rs.877/-                                   |                                |
|         | Total                 | Rs.1,07,877/- rounded off to Rs.1,07,900/- | Rs.1,57,877/- rounded off to Rs.1,57,900/- | <b>Enhanced</b>                |

Thus, the total compensation granted by the Tribunal to the tune of Rs.1,07,900/- is enhanced to Rs.1,57,900/- by this Court.

5.The 2<sup>nd</sup> respondent is directed to deposit Rs.1,57,900/- (Rupees One Lakh Fifty Seven Thousand Nine Hundred only) with interest at the rate of 7.5% per annum and costs to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to



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withdraw the same with accrued interests and costs, less the amount already withdrawn by her, if any, by filing appropriate application before the Tribunal. Since this Court is enhancing the compensation, the claimant is liable to pay the balance Court fee, if any.

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

**10.04.2024**

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

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To

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- 1.Motor Accident Claims Tribunal,  
( I-Additional District and Sessions Judge (PCR)),  
Thanjavur.
- 2.The Section Officer,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**S.SRIMATHY, J.**

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