



C.M.A.(MD).No.272 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.272 of 2018

Ramachandran

... Appellant/Petitioner

-vs-

1. Salma Beevi

2. Reliance General Insurance Company Limited,

Through its Branch Manager,

1st Floor, Varinjam Towers,

Division XLI,

Building No.108 of Kollam Corporation,

Residency Road,

Kollam.

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No. 1113 of 2014, on the file of the Motor Accident Claims Tribunal, (Special Sub Court) Tirunelveli, dated 15.11.2016.

For Appellant : Mr.T.Selvakumaran

For Respondents : Mr.V.Sakthivel – for R2

: Exparte – for R1



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J U D G M E N T

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The present Civil Miscellaneous Appeal has been filed by the claimant, challenging the award passed in M.C.O.P.No.1113 of 2014, on the file of the Motor Accident Claims Tribunal, (Special Sub Court) Tirunelveli, seeking enhancement of compensation.

2. The injured claimant had contended that he is a self employed person engaged in Cutting of Plantain Leaves and he was 40 years old and he was earning a sum of Rs.15,000/- per month through the said employment. Due to the accident, he had suffered fracture over the left leg and he is not able to walk without the help of others. He further contended that he is not able to stand, sit or squat. He has further contended that he is not able to carry any weight. According to him, he is permanently disabled.

3. Ex.P3 – is the Disability Certificate, under which, the disability of the claimant has been assessed 56% . However, without assigning any reason the Tribunal has reduced the said disability to 40%.



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4. The learned counsel appearing for the appellant had further contended that the amount of compensation awarded under the head of pain and suffering, future medical expenses and loss of amenities, additional amounts ought to have been granted.

5. Per contra, the learned counsel appearing for the second respondent/ Insurance Company has contended that the award of the Tribunal is reasonable and therefore, there is no scope for any further enhancement.

6. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

7. The Tribunal has fixed the disability at 40%, reducing it from 56% as assessed by the Doctor under Ex.P.3, on the ground that the Doctor who had given treatment has not issued the said certificate. In such circumstances, the Tribunal can reduce it only by 5% and not beyond that. Therefore, this Court is of the considered opinion that the disability could be fixed at 56% instead of 40%. Considering the nature of injuries sustained by the claimant under the head of pain and suffering a sum of Rs.50,000/- could be awarded in the place of Rs.20,000/-. As per the records, it is clear that plates have been



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implanted to the petitioner. Therefore, for future medical expenses a sum of Rs.20,000/- is awarded. Considering the avocation of the claimant, under the head of loss of amenities a sum of Rs.30,000/- instead of Rs.20,000/- is awarded. In other respects the award of the Tribunal has to be confirmed.

8. In view of the above said deliberations, the award of the Tribunal is reassessed as follows:

For Disability	: Rs.1,50,000/-
Pain and suffering	: Rs. 50,000/-
Transport charges	: Rs. 5,000/-
Loss of income during treatment period	: Rs. 6,000/-
Loss of income after treatment period	: Rs. 18,000/-
Attendar Charges	: Rs. 6,000/-
Extra Nourishment	: Rs. 5,000/-
Loss of amenities	: <u>Rs. 30,000/-</u>
Total	: Rs.2,70,000/-

9. The award of the Tribunal is enhanced from Rs.2,00,000/- to Rs.2,70,000/- (Rupees Two Lakhs and Seventy Thousand only). The said



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enhanced amount shall carry interest at the rate of 7.5% per annum from the date of filing of the claim petition. The Insurance Company is directed to deposit the enhanced amount along with accrued interest, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the claimant is entitled to withdraw the same by filing necessary petition before the Tribunal.

10. Accordingly, this Civil Miscellaneous Appeal stands partly allowed to the extent as stated above. There shall be no order as to costs.

15.07.2024

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

1. The Motor Accident Claims Tribunal,
(Special Sub Court)
Tirunelveli,
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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