



C.M.A.(MD) No.1374 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD)No.1374 of 2024

G.Mallika
Appellant

...

vs.

1.Nagarajan,
2.Magma HDI General Insurance Company Limited,
Branch Office,
D.No.1, New Tank Street,
Valluvarkottam High Road,
Nungambakkam,
Chennai – 600 004.
Through its Branch Manager
Respondents

...

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, 1988, against the award dated 01.08.2023 in M.C.O.P.No.249 of 2018 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Tirunelveli.

For appellant : Mr.I.Robert Chandra Kumar

For Respondents

for R1 : Dispensed with
for R2 : Mr.N.Shylappa Kalyan

J U D G M E N T



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The appeal has been filed by the claimant seeking enhancement of the compensation.

2. Since the findings on negligence and liability are not under challenge, the facts leading to the filing of the claim petition are not necessary for the disposal of the appeal.

3. The learned counsel for the appellant submitted that the Tribunal, while rightly adopting the multiplier method in computing the compensation under the head loss of income, had erroneously fixed a meagre notional income of Rs.6,000/- p.m., which has to be enhanced.

4. Since the first respondent remained *ex parte* before the Tribunal, notice to the first respondent is dispensed with.

5. The learned counsel for the second respondent, per contra, submitted that the award of the Tribunal is just and reasonable and no interference is called for.

6. The only question involved in the instant appeal is '*whether the Tribunal had awarded the just and reasonable compensation?*'



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WEB COPY 7. The Tribunal, while computing the loss of income and the compensation for permanent disability, had adopted the multiplier method after assessing the functional disability at 86%. The said finding is not under challenge. However, the Tribunal had fixed a meagre sum of Rs. 6,000/- p.m., as notional income. That apart, it is seen that the Tribunal had not considered the future prospects of the deceased. Ex.P25/certificate issued by the District Collector confirms that the appellant is a qualified tailor. Considering the year of the accident (2018), avocation and age of the appellant, this Court is of the view that it would be just and reasonable to fix the notional income at Rs.10,000/- p.m. Since the appellant was 47 years old at the time of the accident, 25% has to be added towards future prospects. Hence, the compensation under the head 'loss of income' has to be Rs.10,000/- + Rs.2,500/- x 12 x 13 x $\frac{86}{100}$ = Rs.16,77,000/-. The compensation under the other heads is confirmed. Thus, the compensation awarded by the Tribunal is enhanced as follows:

<i>S.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	For permanent disability	Rs. 8,04,960/-	Rs.16,77,000/-	Enhanced



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S.No	Description	Amount awarded by the Tribunal	Amount awarded by this Court	Award confirmed, enhanced or granted
2	Medical expenses	Rs. 6,71,384/-	Rs. 6,71,384/-	Confirmed
3	Pain and sufferings	Rs. 50,000/-	Rs. 50,000/-	Confirmed
4	Extra nourishment	Rs. 10,000/-	Rs. 10,000/-	Confirmed
5	Transportation charges	Rs. 10,000/-	Rs. 10,000/-	Confirmed
6	Attendant charges	Rs. 10,000/-	Rs. 10,000/-	Confirmed
	Total	Rs.15,56,344/-	Rs.24,28,384/-	Enhanced by Rs.8,72,040/-

8. The second respondent/Insurance Company is directed to pay the enhanced compensation of **Rs.24,28,384/-** (Rupees Twenty Four Lakhs, Twenty Eight Thousand, Three Hundred Eighty Four only) together with interest at 7.5% p.a., from the date of the claim petition till the date of realization 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.

9. 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 an appropriate application before the Tribunal.



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10. In the result, this Civil Miscellaneous Appeal is allowed. No

costs.

28.10.2024

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

To
1.The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate Court, Tirunelveli.

2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

SUNDER MOHAN,J

apd



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