



C.M.A(MD)No.331 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.06.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A.(MD)No.331 of 2018

Murugan

... Appellant/Petitioner

VS

1.Gomathi

2.The New India Assurance Company Limited,
Through its Branch Manager,
Catholic Centre Building,
Main Road, Kovilpatti.

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree made in M.C.O.P.No.244 of 2012 on the file of the Motor Accident Claims Tribunal(Chief Judicial Magistrate Court), Tirunelveli, dated 07.12.2015.

For Appellant : Mr.T.Selvakumaran

For R1 : Dispensed with
For R2 : Mr.Y.Prakash



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JUDGMENT

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The instant appeal has been filed by the claimant against the judgment and decree made in M.C.O.P.No.244 of 2012 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate Court), Tirunelveli seeking enhancement of the compensation amount.

2. The injured claimant had filed the above claim petition on the ground that he has sustained grievous injuries in an accident that had taken place on 05.04.2012.

3. According to the claimant, he was 40 years old and he was an Assistant Mason and had his monthly income of Rs.10,000/-. As per the Ex.P.11 - Disability Certificate, the claimant had sustained 65% disability. The Tribunal has reduced the percentage of disability from 65% to 45% and thereafter, has proceeded to pass the award. The Tribunal has fixed a sum of Rs.2,000/- per percentage for the disability and ultimately, has passed an award for a sum of Rs.1,96,600/-. Challenging the said award, the present appeal has been filed.

4. According to the learned Counsel appearing for the appellant, a sum of Rs.4,000/- should have been awarded per percentage of disability. He further



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contented that the Tribunal has not assigned any reason for reducing the disability from 65% to 45%.

5. Per contra, the learned Counsel appearing for the respondent/Insurance Company herein contented that the Tribunal has fixed the reasonable award and there is no scope of enhancement.

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

7. As rightly pointed out by the learned Counsel appearing for the appellant, the Tribunal has reduced the percentage of disability from 65% as fixed under Ex.P.11 to 45%.

8. This Court is of the considered view that the disability could be fixed as 50%. Considering the fact that the accident has taken place in the year 2012, a sum of Rs.3,000/- should have been awarded per percentage of disability.

9. In view of the above said discussions, the compensation amount is re-assessed as follows:



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Sl. No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted
1.	Pain and Sufferings	Rs.75,000/-	Rs.75,000/-	Confirmed
2.	Transport Charges	Rs.5,000/-	Rs.5,000/-	Confirmed
3.	Extra Nourishment	Rs.5,000/-	Rs.5,000/-	Confirmed
4.	Attendant Charges	Rs.6,600/-	Rs.6,600/-	Confirmed
5.	45% Disability enhanced to 50% Disability	Rs.90,000/-	Rs.1,50,000/-	Enhanced
6.	Loss of amenities	Rs.15,000/-	Rs.15,000/-	Confirmed
	Total	Rs.1,96,600/-	Rs.2,56,600/-	Enhanced by Rs.60,000/-

10. The award amount awarded by the Tribunal is enhanced from Rs.1,96,600/- to Rs.2,56,600/-. The respondent/Insurance Company is directed to deposit the entire award amount along with interest at 7.5% p.a., from the date of claim petition till date of realisation, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is entitled to withdraw the same. In other aspects, the award of the Tribunal stands confirmed.

11. With the above said observations, this Civil Miscellaneous Appeal is allowed to the extent as stated above.

11.06.2024

Internet: Yes/No

Index: Yes/No

RJR



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R.VIJAYAKUMAR, J.

RJR

To

- 1.The Motor Accident Claims Tribunal
(Chief Judicial Magistrate Court), Tirunelveli.
- 2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

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