



C.M.A(MD)No.1143 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.02.2024

CORAM

THE HON'BLE MR.JUSTICE S.SRIMATHY

C.M.A(MD)No.1143 of 2023

Rajesh

... Appellant

Vs.

1. Ajin Stephin
2. David Rajan
3. United India Assurance Company Limited,
Represented by its Branch Manager,
No.2/60/1, P.P.K. Building,
Trivandraum Main Road,
Marthandam,
Kanyakumari District,
Tamil Nadu – 629 165.
4. T.Sunil
5. United India Assurance Company Limited,
Represented by its Branch Manager,
No.2/60/1, P.P.K. Building,
Trivandraum Main Road,
Marthandam,
Kanyakumari District,
Tamil Nadu – 629 165.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, against the award made in M.C.O.P.No.180 of 2019



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on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Kanyakumari at Nagercoil, dated 27.03.2023.

For Appellant : Mr.C.Sankar Prakash
For R-1, R-2 & R-4 : Mr.S.Royle Emmanuel
For R-3 : No appearance

JUDGEMENT

The claimant has filed this Appeal against the award passed in M.C.O.P.No.180 of 2019 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Kanyakumari at Nagercoil, dated 27.03.2023.

2. It is a case of injury. The claimant was doing the job of Wood cutter and Tapering.

3. The contention of the claimant is that due to the said accident he lost the functioning of his leg since the nerves were cut and his leg cannot be used at all. The disability certificate given by the Medical Board has fixed the permanent disability as 29%, but the Tribunal has fixed loss of income to the tune of Rs.50,000/-, which is erroneous.



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4. After perusing the records this Court is of the considered opinion that fixing of Rs.50,000/- for loss of income is on the lower side. Hence, this Court is increasing it to further Rs.1,00,000/-, totally under the head of loss of income shall be Rs.1,50,000/- lakh. Further under the head of Nutrition foods a sum of Rs.50,000/- shall be granted. The Tribunal has not considered under the head of Loss of Amenities, hence under this head a sum of Rs.50,000/- shall be granted. The rest of the compensation granted by the Tribunal is confirmed.

5. Accordingly, the claimant is entitled for compensation as follows:

S. No.	Description	Amount awarded by		Award confirmed / enhanced / granted
		Tribunal	this Court	
1.	For Loss of Income	Rs. 50,000/-	Rs.1,50,000/-	Enhanced
2.	Attendant charges	Rs. 15,000/-	Rs. 15,000/-	confirmed
3.	For Transport Expenses	Rs. 10,000/-	Rs. 10,000/-	confirmed
4.	For Nutritious Food	Rs. 25,000/-	Rs. 50,000/-	enhanced
4.	For Pain and Sufferings	Rs.1,00,000/-	Rs.1,00,000/-	confirmed
5.	loss of amenities	--	Rs. 50,000/-	granted
Total		Rs. 2,00,000/-	Rs. 3,75,000/-	

with interest at 7.5% p.a., as awarded by the Tribunal, from the date of claim petition till the date of realization.



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6. In view of the said modification, this Civil Miscellaneous Appeal is partly allowed. The award amount of Rs.2,00,000/-granted in M.C.O.P.No.180 of 2019 by the learned Motor Accident Claims Tribunal/Chief Judicial Magistrate, Kanyakumari at Nagercoil, is enhanced to Rs.3,75,000/-with 7.5% interest. The Insurance Company is directed to deposit the award amount, within a period of 12 weeks, from the date of receipt of copy of the order. The claimant is permitted to withdraw the entire amount as per law. No costs.

21.02.2024

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

KSA

Note : Issue a copy of order on 08.03.2024



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To

1. The Motor Accident Claims Tribunal/
Chief Judicial Magistrate,
Kanyakumari at Nagercoil.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

KSA

**Order made in
C.M.A(MD)No.1143 of 2023**

21.02.2024