



C.M.A.(MD).No.480 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.480 of 2017

Rathinamani

... Appellant/Petitioner

-VS-

1. MSPK Transport,
No.11, Ameer Square Building,
Kailasapuram,
Tirunelveli.

2. ICICI Lombard General Insurance Company Limited,
Through its Branch Manager,
No.414, Veer Savarkar Marg,
Near Siddhi Vinayak Temple,
Prabhadevi,
Mumbai – 400 025.

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No.53 of 2013, on the file of the Motor Accident Claims Tribunal, (Principal Sub Court), Tirunelveli, dated 12.09.2014.

For Appellant : Mr.T.Selvakumaran

For Respondents : Mr.V.Muthukamatchi – for R2
: No appearance – for R1



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J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the claimant in M.C.O.P.No.53 of 2013, on the file of the Motor Accident Claims Tribunal, (Principal Sub Court), Tirunelveli, seeking enhancement of compensation.

2. The injured claimant was 64 years old, house wife, who had sustained 57% of disability as per Ex.P.35. The Tribunal has awarded a compensation as follows:

Transport Charges	: Rs.10,000/-
Extra Nourishment	: Rs. 5,000/-
Mental Agony	: Rs.10,000/-
Pain and suffering	: Rs.10,000/-
Permanent partial disablement (57x1000)	: <u>Rs.57,000/-</u>
Total	: <u>Rs.92,000/-</u>

Challenging the said award, the present appeal has been filed by the claimant seeking enhancement of compensation.



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3. According to the learned counsel appearing for the appellant, as per the judgment of this Court reported in **2013 (2) TNMAC 583 (National Insurance Company Limited Vs. G.Ramesh and another)** for each percentage of disability, a sum of Rs.3,000/- has to be awarded. He further sought for enhancement of compensation under the heads of extra nourishment and pain and suffering.

4. Per contra, the learned counsel appearing for the second respondent/ Insurance Company has contended that the award amount is reasonable and there is no scope for further enhancement of compensation.

5. Considering the fact that the injured claimant was 64 years old and she has sustained fracture over right leg femur and left hip, this Court is inclined to enhance the compensation under the head of extra nourishment from Rs.5,000/- to Rs.10,000/- and under the head of “pain and suffering”, from Rs.10,000/- to Rs.50,000/-. As far as the award under the head of permanent disability is concerned, for each percentage of disability, a sum of Rs.2,000/- is awarded. In other respects, the award of the Tribunal is hereby confirmed.



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

Transport Charges	: Rs. 10,000/-
Extra Nourishment	: Rs. 10,000/-
Mental Agony	: Rs. 10,000/-
Pain and Sufferings	: Rs. 50,000/-
Partial Permanent Disability (57x 2000/-)	: <u>Rs.1,14,000/-</u>
Total	<u>:Rs.1,94,000/-</u>

7. The award of the Tribunal is enhanced from Rs.92,000/- to Rs.1,94,000/- (Rupees One Lakh Ninety Four Thousand only). The said enhanced amount shall carry interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of realization. The Insurance Company is directed to deposit the balance 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.



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

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

1. The Motor Accident Claims Tribunal,
(Principal 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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