



C.M.A.(MD).No.481 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.481 of 2017

Jeyaprakash

... 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.54 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.54 of 2013, on the file of the Motor Accident Claims Tribunal, (Principal Sub Court), Tirunelveli, seeking enhancement of compensation.

2. As per the claim petition, the injured claimant was a two wheeler Mechanic, aged about 68 years and he was earning a sum of Rs.7,500/- per month. As per Ex.P.33 disability Certificate, the disability of the petitioner has been assessed at 67%. The Court has accepted the said certificate and has proceeded to award a sum of Rs.1,000/- per percentage of disability. The Tribunal has assessed the compensation as follows:

Loss of income during Treatment period Rs.4,500x 3	: Rs. 13,500/-
Transport Charges	: Rs. 10,000/-
Extra Nourishment	: Rs. 5,000/-
Medical expenses	: Rs.2,60,960/-
Mental Agony	: Rs. 10,000/-
Pain and Sufferings	: Rs. 10,000/-
Permanent Partial Disablement (67x1000)	: <u>Rs. 67,000/-</u>
Total	: Rs.3,76,460/-



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

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 the award under the other heads also.

4. Per contra, the learned counsel appearing for the second respondent/ Insurance Company has contended that the amount awarded is already excessive and therefore, there is no scope for any further enhancement.

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

6. Considering the fact that the injured claimant was 68 years old and he had sustained serious injuries in the left arm, this Court is inclined to enhance the award amount under the head of pain and suffering from Rs.10,000/- to Rs.50,000/- and for each percentage of disability instead of



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Rs.1,000/- a sum of Rs.2,000/- is awarded. In other respects, the award of the Tribunal has to be confirmed.

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

Loss of income during treatment period	: Rs.13,500/-
Transport Charges	: Rs.10,000/-
Extra Nourishment	: Rs. 5,000/-
Medical expenses	:Rs.2,60,960/-
Mental Agony	: Rs.10,000/-
Pain and Sufferings	: Rs.50,000/-
Partial Permanent Disability 67x 2000/-	: <u>Rs.1,34,000/-</u>
Total	: <u>Rs.4,83,460/-</u>

8. The award of the Tribunal is enhanced from Rs.3,76,460/- to Rs.4,83,460/- (Rupees Four Lakhs Eighty Three Thousand Four Hundred and Sixty 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 second respondent/Insurance Company is directed to deposit



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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.

9. 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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