



C.M.A(MD)No.896 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.896 of 2023

A.Gowthama Moni

... Appellant

Vs.

1.S.Mathanlal

2.A.V.Siva

3.Shriram General Insurance Company Limited,
E-8, EPIP Sitapura Industrial Area,
Jaipur, Rajasthan – 302 022,
Represented by its Area Manager,
No.25, B2/IS-S.N.High Road,
2nd Floor, SRC Complex,
Tirunelveli – 627 001.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the award, dated 08.08.2022 made in M.C.O.P.No.7 of 2019 on the file of the Motor Accident Claims Tribunal, (Cheif Judicial Magistrate), Kanyakumari at Nagercoil.

For Appellant	: Mr.C.Sankar Prakash
For R1	: Given up
For R2	: No Appearance
For R3	: N.Shyllappa Kalyan



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JUDGEMENT

This Civil Miscellaneous Appeal is filed by the claimant.

2. It is a case of injury. The injured suffered fracture in the cervical bone. Even though he was treated as out-patient from 01.09.2015 to 18.01.2017, he underwent operation in the second spell of treatment from 25.09.2017 to 23.01.2019. Again, he underwent operation to remove the metal rod which was inserted in his cervical bone. The contention of the claimant is that he was doing agricultural work but he could not carry out his agricultural activities for 20 months because of the fracture in his cervical bone. Even though the claimant is claiming for 20 months, this Court is restricting the same to 8 months. Since the claimant was doing agriculture work, this Court is fixing the salary as Rs.8000/- for 8 months. Hence, loss of income will be enhanced to Rs.64,000/- from Rs. 10,000/-. The appellant has filed a memo stating that the 1st respondent has given up and the said memo is recorded herein.

3. As far as the attendant charges are concerned, this Court is enhancing from Rs.5,000/- to Rs.10,000/-. For nutritious food, this Court is enhancing from Rs.5,000/- to Rs.20,000/-. For loss of amenities, the Tribunal has not granted any amount but this Court is granting Rs.40,000/-. For pain and suffering, this Court



is enhancing from Rs.10,000/- to Rs.40,000/-. However, the respondents vehemently objected for increasing the amount in all these heads. Therefore, this Court is restricting the overall enhancement to Rs.1,00,000/-. Therefore, the total award will be enhanced with Rs.1,00,000/- additionally. Hence, the total compensation is Rs.2,25,000/-. The modified compensation is as under:

Sl.No	Head of compensation	Modified award granted by this Court	Award granted by the Tribunal
1.	For loss of income (Rs.8,000*8)	Rs.64,000/-(enhanced)	Rs.10,000/-
2.	For Medical Expenses	Rs.85,000/- (confirmed)	Rs.85,000/-
3.	Attendant Charges	Rs.10,000/-(enhanced)	Rs.5,000/-
4.	For Transport Expenses	Rs.10,000/- (confirmed)	Rs.10,000/-
5.	For Nutritious Food	Rs.20,000/- (enhanced)	Rs.5,000/-
6.	For Pain and Sufferings	Rs.40,000/- (enhanced)	Rs.10,000/-
7.	Loss of Amenities	Rs.40,000/-	Not granted by Tribunal
	Total	Rs.2,69,000/-	Rs.1,25,000/-
	Restricting the enhancement to Rs.1,00,000/-	- Rs.44,000/-	
	Total enhanced compensation	Rs.2,25,000/- (enhanced)	

4.The 3rd respondent is directed to deposit Rs.2,25,000/- with interest at the rate of 7.5% per annum and costs to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant



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is permitted to withdraw the same with accrued interests and costs, less the amount already withdrawn by him, if any, by filing appropriate application before the Tribunal.

5.With the above said observation, the Civil Miscellaneous Appeal is partly allowed. No costs.

26.02.2024

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

Tmg

To

- 1.Motor Accident Claims Tribunal
(Cheif 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.

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