



C.M.A.(MD)Nos.346 of 2020 and 1100 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : **20.06.2024**

CORAM :

JUSTICE N.SESHASAYEE
and
JUSTICE L.VICTORIA GOWRI

C.M.A(MD)Nos.346 of 2020 and 1100 of 2015

In C.M.A(MD)No.346 of 2020:

V.Arul Justin Dhas

...Appellant/Claimant

Vs.

1.Dr.G.Jacob Appadurai

2.N.Meenakumari

3.Head Office,

TATA-AIG General Insurance Company Ltd.,

4th Floor, Ahura Centre, Mahakali Kovil Road,

Andheri East, Mumbai – 400 093.

4. Branch Office,

TATA – AIG General Insurance Company Ltd.,

No.1, CNC Road,

Ethiraj Salai, Egmore,

Chennai – 600 008.

...Respondents 1 to 4/

Respondents 1 to 4

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 05.08.2014 made in M.C.O.P.No.21 of 2009 on the file of the Motor Accident Claims Tribunal, Kuzhithurai.

For Appellant : Mr.M.Jerin Mathew

For R4 : Mr.J.S.Murali



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In C.M.A(MD)No.1100 of 2015:

1.TATA AIG General Insurance Company Ltd.,
Akoora Centre,
4th Floor, Maga Kali Kovil Rad,
East Antheri, Mumbai – 93.

2.TATA AIG General Insurance Company Ltd.,
No.1, C.N.C.Salai Ethiraj Salai,
Egmore, Chennai - 8

...Appellant/Claimant

Vs.

1.Arul Justin Doss
2.Dr.G.Jacob Appadurai
3.Meena Kumari

..1st Respondent/Petitioner

...Respondents 2 & 3/Respondents

(Notice to the 2nd respondent is dispensed with as he was set ex-parte before the Tribunal vide order dated 14.06.2024 made in CMA(MD)No. 1100 of 2015 by NSSJ & LVGJ)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the fair and decreetal order dated 05.08.2014 made in M.C.O.P.No.21 of 2009 on the file of the Motor Accident Claims Tribunal (Sub Court), Kuzhithurai.

For Appellant : Mr.J.S.Murali
For R4 : Mr.M.Jerin Mathew

COMMON JUDGMENT

[Judgment of the Court was delivered by **N.SESHASAYEE, J.**]

In a road accident that took place on 27.06.2008 at Royapettah, Chennai, a Car bearing No.TN-07-AU-7961 dashed against a pedestrian from behind leaving his both the legs fractured. The victim of the accident was later moved the Motor Accident Claims Tribunal seeking compensation. He was about 47 years old at the relevant time and was admitted in the



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hospitals in three spells from the date of the accident. His fracture is stated to have been corrected. The medical evidence is made available to show that he had affected partial permanent disability.

2. The Tribunal reckoned the income of the victim at Rs.15,000/- and treated his injury as a permanent injury and applied '13' as a multiplier corresponding to the age of the victim and arrived at Rs.9,36,000/- towards loss of income. To this, it added other conventional heads of compensation, which includes the medical expense of Rs.1,21,250/-. The break up is as follows:

<i>Sl. No.</i>	<i>Heads of Compensation</i>	<i>Amount awarded by Tribunal (Rs.)</i>
1.	Loss of income	9,36,000.00
2.	Medical Expenses	1,21,250.00
3.	Transportation	15,550.00
4.	Damages to clothings	4,000.00
5.	Future medical expenses	25,000.00
6.	Pain and suffering	1,00,000.00
7.	Extra nourishment	15,000.00
Total :		12,16,800.00

3. Both the claimants as well as the Insurance Company of the offending vehicle were unhappy about the award passed by the Tribunal.



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4. The Insurance Company contends that the Tribunal ought not to have applied multiplier method to assess compensation payable on the head of loss of income by treating the partial permanent disability at 40%.

5. The claimant came up with his appeal in C.M.A(MD)No.346 of 2020 claiming enhancement of compensation.

6. Heard both sides. This Court perused the medical evidence as well as the finding of the Tribunal regarding the fixation of partial permanent disability at 40%. Admittedly, both the legs of the claimant were fractured and the same had been surgically corrected and the claimant is running few institutions and the disability he stated to have suffered is likely to impair his earning capacity much. Further, it may still affect his ability to expand his business. To this extent, this Court may have to consider the nature of injuries suffered by the victim as partial permanent disability. Taking an overall view of the situation, this Court considers it appropriate to fix the partial permanent disability of the victim at 20%.

7. This Court scans through the various conventional heads of compensation. This Court opined that considering the nature of injuries



suffered by the victim, the Tribunal should also have awarded reasonable compensation under the heads of 'loss of amenities' and 'attendant charges'. Yet another major head is omitted by the Tribunal. Even though the Tribunal had noted that the victim might have been out of action for six months, it had not awarded anything under the head the loss of income during treatment period. These are now corrected.

8. Now, inasmuch as the percentage of partial permanent disability has been brought down from 40% to 20%, the total compensation amount payable under the head of loss of income due to partial permanent disability comes (Rs.1,80,000 x 13 x 20/100) to Rs.4,68,000/-.

<i>Sl. No.</i>	<i>Heads of Compensation</i>	<i>Amount awarded by this Court (Rs.)</i>
1.	Loss of income due to partial permanent Disability at 20%	4,68,000.00
2.	Extra nourishment	15,000.00
3.	Loss of amenities	25,000.00
4.	Attendant Charges	10,000.00
5.	Transportation	15,550.00
6.	Damages to clothings	4,000.00
7.	Medical expenses	1,21,250.00
8.	Future medical expenses	25,000.00
9.	Pain and sufferings	1,00,000.00
10.	Loss of income during treatment	90,000.00
Total :		8,73,800.00



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9. In fine, the appeal filed by the claimant in C.M.A(MD)No.346 of 2020 is dismissed. The appeal filed by the Insurance Company in C.M.A.(MD) No. 1100 of 2015 is partially allowed. No costs.

10. This Court is informed that the Insurance Company had deposited the entire compensation amount as was determined by the Tribunal. The claimants are entitled to withdraw the compensation amount herein fixed by this Court with interest at the rate of 7.5% from the date of petition till the date of deposit and the Insurance Company is at liberty to withdraw any amount excess of the amount awarded by this Court in these appeals.

(N.S.S., J.) (L.V.G., J.)
20.06.2024

Index : Yes / No
Neutral Citation : Yes / No
CM

To

1. The Motor Accident Claims Tribunal, Kuzhithurai.

2. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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N.SESHASAYEE, J.
and
L.VICTORIA GOWRI, J.

CM

Common Judgment made in
C.M.A(MD)Nos.346 of 2020 and 1100 of 2015

20.06.2024