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C.M.A.No.1311 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2025

CORAM:

THE HONOURABLE MR. JUSTICE K.RAJASEKAR

Civil Miscellaneous Appeal No.1311 of 2022

P.Manoharan

... Appellant /Petitioner

Vs.

1. K. Nagarajan

2. The United India Assurance Company Limited,
Rep. by its Branch Manager,
233-B, Main Road,
Amman Complex, Anna Nagar,
Arachalur, Erode – 638 101.

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and Decree dated 11.04.2022 made in M.C.O.P.No.10 of 2020 on the file of the Motor Accidents Claims Tribunal, Special Subordinate Judge, Erode.

For Appellant : Ms. K. Megala
For Mr. N. Manoharan

For Respondents : No appearance



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JUDGMENT

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This Civil Miscellaneous Appeal has been filed by the claimant seeking enhancement of compensation against the award passed by the Tribunal in M.C.O.P.No.10 of 2020, dated 11.04.2022, on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Erode.

2. The parties are referred to hereunder according to their litigative status and ranking before the Tribunal.

3. The claimant has sustained grievous injuries in the accident taken place on 16.10.2019 at about 9.00 p.m., while he was walking near P.W.D water tank, Puthur, Parisal Thurai to Annaikkalpalayam, Road. He filed claim petition claiming compensation for a sum of Rs.10,00,000/- as compensation under Section 166 of the Motor Vehicles Act, 1988.

4. The first respondent was owner-cum-driver of the offending vehicle. The second respondent is the insurer of the offending vehicle. Before the Tribunal the second respondent insurer alone has contested the claim. The Tribunal after considering the evidence placed on record, has accepted the case of the claimant and awarded compensation of



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Rs.3,97,000/- along with interest at the rate of 7.5% per annum from the date of filing of claim petition till the date of realisation.

5. Aggrieved over the quantum of compensation, this appeal has been filed by the claimant.

6. M/s. K. Megala for Mr.N.Manoharan, learned counsel appearing for the claimant has submitted that the accident was taken place in the year 2019 whereas, the compensation was awarded by following percentage method is on the lower side and prays to modify the compensation awarded for the head disability. The learned counsel has also submitted that the compensation awarded under other heads are also on the lower side and prays to enhance the same.

7. Though this Court has served notice on the respondents they have not come forward to contest this appeal.

8. I have considered the submissions made on the learned counsel for the appellant and also perused the records available.



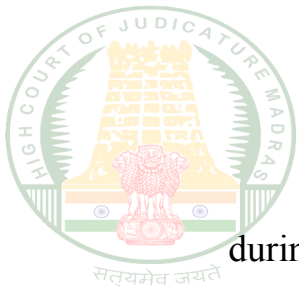
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9. The award of the Tribunal shows that the Disability Certificate of the claimant was marked as Ex.C1 which is issued by the Medical Board based on examination and assessed the disability of the claimant to the extent of 50%. Ex.P10 - Discharge Summary shows that the claimant has sustained following injuries:

“C3 – C5 Level Cord Oedema/ C3 – C4 Posterior Disc Bulge, C6 – C7 Congenital Block Vertebra”.

10. These injuries have been examined by the Medical Board, the Government Mohan Kumaramangalam Medical College Hospital and they have not certified that the injuries sustained by the claimant as functional disability. After considering the Medical Board Certificate as well as medical records, the Tribunal has treated the injury as non-functional disability and awarded compensation by adopting percentage method. This Court finds no reason to interfere with the said finding. However, the Tribunal has awarded Rs.5,000/- per percentage of disability and the same is very meager since this Court has consistently followed the norms for awarding compensation by fixing Rs.7,000/- per percentage of disability is proper. Accordingly, the compensation awarded under the head disability is modified to Rs.3,00,000/- [7000 x 50% disability].

11. The Tribunal has also awarded 4 months income as loss of income



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during the period of disablement. Accordingly, a sum of Rs.56,000/- [14000 x 4 months] is hereby awarded under the head loss of income during the period of disablement. The Tribunal has awarded compensation of Rs.6,000/- under the head Transport to Hospital and this Court finds the same needs enhancement and the same is enhanced to Rs.10,000/-. Similarly, the compensation of Rs.6,000/- awarded under the head Extra Nourishment needs enhancement and the same is enhanced to Rs.15,000/-.

12. As far as the compensation awarded under other heads are concerned, this Court finds the same is just and reasonable and there is no need for enhancement and the same are hereby confirmed.

13. The injuries sustained by the claimant is on the vertebra and it cause continuous pain and sufferings and though the Tribunal has awarded sufficient compensation under the head pain and sufferings, has not awarded any amount under the head loss of amenities. Accordingly, I am inclined to award a sum of Rs.20,000/- under the head loss of amenities.

14. Thus the compensation awarded by the Tribunal under various



heads are hereby modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1	Loss of Earnings/Loss of income during treatment period	Rs.36,000/-	Rs.56,000/-	Enhanced
2	Transport to Hospital	Rs.6,000/-	Rs.10,000/-	Enhanced
3	Extra Nourishment	Rs.6,000/-	Rs.15,000/-	Enhanced
4	Damages for Clothes and Articles	Rs.3,000/-	Rs.3,000/-	Confirmed
5	Medical Expenses	Rs.51,000/-	Rs.51,000/-	Confirmed
6	Pain and Sufferings	Rs.45,000/-	Rs.45,000/-	Confirmed
7	Permanent Disability & Loss of Earning Power	Rs.2,50,000/-	Rs.3,50,000/-	Enhanced
8	Loss of amenities	---	Rs.20,000/-	Granted
	Total	Rs.3,97,000/-	Rs.5,50,000/-	Enhanced by Rs.1,53,000/-

15. In the result, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal is at Rs.3,97,000/- is hereby enhanced to Rs.5,50,000/- [Rupees Five Lakhs and Fifty Thousand only] together with interest at the rate of 7.5% per annum from the date of filing of Claim Petition till the date of deposit, excluding the default period if any. The Insurance Company is directed to deposit the award amount, now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of



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receipt of a copy of this judgment to the credit of M.C.O.P.No.10 of 2020,

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on the file of the Motor Accidents Claims Tribunal, Special Subordinate Court, Erode. On such deposit, the claimant is permitted to withdraw the award amount along with proportionate interest and costs, less the amount if any, already withdrawn. The Tribunal shall disburse the amount by directly crediting into the Savings Bank Account of the claimant. Since this Court has enhanced the compensation, the claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. In other aspects, the award of the Tribunal shall stand confirmed. There shall be no order as to costs in the present appeal.

02.01.2025

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

To

1.The Special Subordinate Judge,
Motor Accidents Claims Tribunal,
Erode District.

2.The Section Officer,
VR Section, High Court, Madras.

K.RAJASEKAR,J.

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