



CMA.No.2669 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA.No.2669 of 2022

Arun

... Appellant

Vs.

1.Shanmugam

2.M/s.National Insurance Company Limited,
2nd Floor, Thuvaraganath Complex,
Trichy Main Road,
Venkatesapuram,
Perambalur.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the order in MCOP.No.266 of 2019, dated 08.07.2022, on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Perambalur.

For Appellant : M/s.K.Priyavarshini

For Respondents : M/s.J.Chandran
for R2
R1-exparte



WEB COPY



CMA.No.2669 of 2022

J U D G M E N T

The appellant/injured claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal Chief Judicial Magistrate, Perambalur in MCOP.No.266 of 2019, dated 05.04.2021, has come by way of this Civil Miscellaneous Appeal.

2. It is not in dispute that the appellant/claimant suffered injury in a road accident that had taken place on 31.10.2018. Both the counsel appearing for the appellant and the respondents have not advanced arguments on negligence and liability aspect. Therefore, the facts necessary for deciding negligence and liability aspect have not been discussed in this judgment.

3. Heard the learned counsel for appellant/claimant and the learned counsel appearing for second respondent/Insurance Company.

4. The learned counsel appearing for the appellant/claimant would submit that as per the disability certificate issued by Medical Board



under Ex.C1, the Medical Board assessed the disability at 40% and the same has been reduced by the Tribunal without any basis and therefore, the amount awarded by the Tribunal under the head of permanent disability shall be suitably increased by taking disability at 40%.

5. The learned counsel appearing for the second respondent/Insurance Company would submit that 40% disability was assessed by the Medical Board in relation to left upper limb of the injured and the same is converted into whole body disability and fixed at 15%. Therefore, according to him, the compensation awarded by the Tribunal towards permanent disability does not call for any interference.

6. A perusal of Ex.P4-wound certificate would indicate that the appellant received following two injuries due to the accident:

- (i) Severe degloving injury of anterior and posterior compartments of left upper arm and cubital fossa;
- (ii) Fracture left humerus is exposed to environment.



CMA.No.2669 of 2022

7. The Medical Board which examined the injured had issued

Ex.C1-disability certificate fixing the disability for left upper limb at 40%.

The 40% disability issued by the Medical Board is only for the left upper limb of the claimant and the same has to be converted for whole body.

Admittedly, the claimant is a Civil Engineer in construction work. The nature of his work involves supervision and the nature of disability suffered by him in the left upper limb will not fully affect his avocation. The 40% disability assessed for upper limb has to be converted for whole body.

Though the Medical Board assessed the disability at 40%, the Tribunal rightly assessed the whole body disability at 15% by taking into consideration the nature of the work of the appellant. Therefore, the submission made by the learned counsel appearing for the appellant that reduction of the disability by the Tribunal to 15% is unjustified cannot be accepted. Therefore, the amount of Rs.5,40,000/- awarded by the Tribunal under the head of disability by fixing the whole body disability at 15% need not be interfered with.

8. This Court feels that having regard to the date of accident and other facts, the notional income at Rs.20,000/- fixed by the Tribunal is



CMA.No.2669 of 2022

on the higher side. However, the Tribunal has not awarded any amount under the head loss of income during treatment period. Admittedly, the appellant suffered a fracture in left upper limb and he had taken treatment for the same. Therefore, the injuries suffered by him would have kept him out of his work at least for four to six months. Though notional income fixed by the Tribunal is on higher side, having regard to the fact the Tribunal has not awarded any compensation under the head of loss of income during treatment period, this Court is inclined not to disturb the notional income as fixed by the Tribunal.

9. Accordingly, the award amount passed by the Tribunal is confirmed and the Civil Miscellaneous Appeal is dismissed.

06.02.2025

Index : Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

ub

To

1.Motor Accident Claims Cases, Special Subordinate Court, Krishnagiri.

2.The Section Officer

VR Section, High Court, Madras.

5/6



WEB COPY



CMA.No.2669 of 2022

S.SOUNTHAR, J.

ub

CMA.No.2669 of 2022

06.02.2025