



C.M.A.(MD)No.882 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2025

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.(MD)No.882 of 2024

K.Sakthivel

... Appellant

VS.

1. W. Dhilip Bharath

2. The Branch Manager.

The Reliance General Insurance Company,
Dhanan Tower 1st Floor,
Pinny Main Road, Park Road,
Tiruppur District.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 73 of Motor Vehicles act, to enhance the compensation amount of Rs.8,63,000/- as claimed by the appellant/petitioner by modifying the fair and decreetal order in M.C.O.P.No.135/2019 dated 04.08.2023 passed by Motor Accident Claim Tribunal / Chief Judicial Magistrate Court, Theni and allow this Civil Miscellaneous Appeal with interest and costs.

For appellant

: Mr.K.C.Ramalingam

For R-2

: Mr.J.S.Murali



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J U D G M E N T

This Civil Miscellaneous Appeal has been preferred against the award dated 04.08.2023 passed in M.C.O.P.No.135 of 2019, by the Motor Accidents Claim Tribunal/Cheif Judicial Magistrate Court, Theni, for enhancement of compensation.

2. Heard the arguments of learned counsels on either side and perused the relevant records.

3. The learned Counsel for the appellant would strenuously argued that the claimant for having spent on medical expenses to the tune of Rs.1,50,736/-, the Tribunal did not grant any amount towards medical expenses is incorrect. Medical bill is marked as Ex.P.8.

4. On a careful perusal of Ex.P.8, it is in one paper issued in the name of claimant which contains particulars of 35 bill numbers and the amount is quantified as Rs.1,50,736/-. No witness, connected to Ex.P.8 Medical Bill was examined. Without examining the connected person, it cannot be relied upon



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and the Tribunal has rightly held that there is no endorsement as to the receipt of such amount and chose not to grant any amount for medical expenses. This Court does not find any infirmity or perversity on the said findings.

5. From a careful perusal of Ex.P.2 (Wound Certificate) and Ex.P.3 (Discharge Summary) it is deducible that the claimant was admitted as inpatient at Dindigul City Hospital from 06.04.2018 to 19.04.2018 and he suffered fracture of right forearm, fracture on left first metatarsal and fracture on left scapula, for which he had undergone surgery on 07.04.2018 and 12.04.2018 (Ex.P.3 discharge summary). Upon consideration of the said details, an amount of Rs.75,000/- is granted towards medical expenses.

6. The learned Counsel appearing for the appellant would contend that the income of the claimant is fixed at Rs.9,000/- is very less. He would further contend that the claimant was running a banian label company at Tirupur and earning a sum of Rs.15,000/- per month. The date of accident is 05.04.2018. To prove the above said factum, no documents were marked by the claimant.



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7. Upon consideration of the above said details, this Court deems it fit to fix his monthly income of the claimant at Rs.16,000/- per month. For loss of income during the treatment period, an amount of Rs.64,000/- (16,000/- x 4 months =Rs.64,000/-) is granted for four months. For pain and sufferings and for transport expenses an amount of Rs.10,000/- under each head is granted in addition to the amounts already granted by the Tribunal. The compensation awarded by the Tribunal is re-worked and tabulated as hereunder:

S. No	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For Loss of Income during treatment period (16,000x4 =Rs.64,000/-)	Rs.27,000/-	Rs.64,000/-	Enhanced
2	For Permanent Disability	Rs.60,000/-	Rs.60,000/-	Confirmed
3	For Pain and Sufferings	Rs.30,000/-	Rs.40,000/-	Enhanced
4	For Extra nourishment	Rs.5,000/-	Rs.5,000/-	Confirmed
5	For Transportation Charges	Rs.5,000/-	Rs.15,000/-	Enhanced
6	For Attendant Charges	Rs.10,000/-	Rs.10,000/-	Confirmed
7	For Medical Expenses	-	Rs.75,000/-	Granted
	Total	Rs.1,37,000/-	Rs.2,69,000/-	Enhanced by Rs. 1,32,000/-



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8. In the result,

(i) The Civil Miscellaneous Appeal stands partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.1,37,000/- to Rs.2,69,000/-.

(iii) The order of pay and recovery passed by the Tribunal is hereby confirmed. The second respondent/Insurance Company is directed to deposit the compensation amount i.e., Rs.2,69,000/- (less the amount already deposited if any) to the credit of M.C.O.P.No.135 of 2019 on the file of Motor Accidents Claims Tribunal /Cheif Judicial Magistrate Court, Theni, within a period of eight (8) weeks from the date of receipt of a copy of this Judgment and later, recover the same from the first respondent / owner of the vehicle.

(iv) On such deposit being made, the claimant/appellant is permitted to withdraw the award amount, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal.



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(v) The claimant/appellant is directed to pay the Court fee for the enhanced compensation amount, if required.

(vi) The Tribunal below shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimant.

31.01.2025

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

To

1. The chief Judicial Magistrate Court, Theni.
2. The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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R.KALAIMATHI,J

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Pre-delivery order made in
C.M.A.(MD) No.882 of 2024

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