



C.M.A.(MD) No.470 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.01.2025

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.(MD)No.470 of 2023

V.S.Rajan

... Appellant

vs.

1.Shahul Hameed

2.The Divisional Manager,
National Insurance Company Limited,
Motor TP HUB,
3A, North Veli Street, 2nd Floor,
Madurai.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1973, against judgment and decree dated 27.12.2022 passed in M.C.O.P.No.108 of 2019 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Ramanathapuram.

For appellant

: Mr.K.Kumaravel



C.M.A.(MD) No.470 of 2023

For Respondents

For R1

: Ms.S.Sinduja

for Mr.R.Rajamohan

For R2

: Mr.J.S.Murali

J U D G M E N T

Not being satisfied by the award dated 27.12.2022 passed in M.C.O.P.No.108 of 2019 by Motor Accidents Claims Tribunal/Chief Judicial Magistrate Court, Ramanathapuram, the claimant/appellant herein has preferred this appeal for enhancement of compensation.

2. Heard the learned counsel for the appellant and, learned counsels for the first and second respondents. Perused the relevant records.

3. Upon consideration, the Tribunal has fastened the liability on the second respondent/insurance company and directed to pay the compensation of Rs.20,66,896/- to the claimant herein.

4. It has come on record through the evidence of P.W. 1/claimant that on 26.08.2019 at about 11.30 a.m., when he was



C.M.A.(MD) No.470 of 2023

riding his two wheeler bearing registration No.TN-63-AU-9310 along ECR Road near Theerthandathanam Bus stand and when he turned towards northern side, a Hyundai Verna Car bearing registration No.TN-75-J-7995 came from south to north direction and dashed on his vehicle. Due to the said impact, he was thrown away and sustained serious injuries, namely, right parietal bone fracture with small EDH and right open type III ankle dislocation with trimalleolar fracture. For the second fracture internal fixation was done. He was admitted in the hospital on the date of accident i.e., 26.08.2019 and discharged on 13.09.2019 (Ex.P8). Thereafter, he took treatment as inpatient for a week or above on 23.09.2019, on 10.10.2010, on 03.01.2020, on 15.06.2020, on 07.12.2020 and on 29.01.2021. The medical Board has fixed his disability at 70%.

5. The main grievance of the appellant/claimant is that his monthly income was fixed at Rs.15,000/- p.m. It is the evidence of P.W.1 that he was a business man and doing business in the name and style of 'Tamil Nadu Newsprint and Papers Limited'. In this regard, Exs.P31, P32, P36 to P38 (IT Returns) have been marked. For the assessment year 2018-19, a copy of Form-16 is marked



C.M.A.(MD) No.470 of 2023

(Ex.P36), wherein gross income is shown as Rs.7,83,693/- and his business is shown as Labour Contractor. Exs.P37 and P38 are IT Returns for the assessment years 2019-20 and 2020-21. Based on Ex.P36/IT Return, the Tribunal has fixed his notional income at Rs. 15,000/- p.m. and adopted multiplier method for computation of loss of future income. When a business person meets with accident, because of his ill health, his business, on the whole, will not get affected and probably, he has to employ some persons to look after the business in his absence. Even in the subsequent IT Returns, there is no much down fall in the annual income of the claimant. In fact, the annual income for the assessment year 2020-21 as shown as Rs.11,99,930/-, which is higher income than 2018-19.

6. As held by the Hon'ble Supreme Court in ***the Divisional Controller, KRSTC vs. Mahadeva Shetty and another*** reported in ***(2003) 7 SCC 197***, the object of the contract of insurance is to compensate loss occurred during the accident and it should be neither a pittance nor bonanza.



C.M.A.(MD) No.470 of 2023

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7. Bearing in these details in mind, his income is safely fixed at Rs.28,000/- p.m. For computing loss of future income, the following formula emerges:

$$\text{Rs.28,000/-} \times 60\% \times 12 \times 7 \text{ 'M'} = \text{Rs.14,11,200/-}$$

8. In consideration of the treatment taken by the claimant on the above mentioned dates, for transport charges, an amount of Rs.20,000/- is granted in addition to the amount already granted by the Tribunal.

9. In injury cases, for computing loss of future income, if multiplier method is invoked, the claimant is not entitled to the claim of loss of earning during treatment period. The amounts awarded for the other heads appears to be reasonable and acceptable and hence, it needs no interference. The compensation is re-worked and tabulated as given hereunder:



C.M.A.(MD) No.470 of 2023

S. No	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For loss of future earnings	Rs. 7,56,000/-	Rs.14,11,200/-	Enhanced
2	For loss of earning during treatment period	Rs. 75,000/-	---	Rejected
3	For medical expenses	Rs. 10,07,396/-	Rs.10,07,396/-	Confirmed
4	For transport expenses	Rs. 30,000/-	Rs. 50,000/-	Enhanced
5	For attendant charges	Rs. 28,500/-	Rs. 28,500/-	Confirmed
6	For pain and sufferings	Rs. 1,00,000/-	Rs. 1,00,000/-	Confirmed
7	For extra nourishment	Rs. 20,000/-	Rs. 20,000/-	Confirmed
8	For loss of amenities	Rs. 50,000/-	Rs. 50,000/-	Confirmed
	Total	Rs. 20,66,896/-	Rs.26,67,096/-	Enhanced by Rs.6,00,200/-

10. In the result,

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

(ii) The compensation awarded by the Tribunal is enhanced from Rs.20,66,896/- to Rs.26,67,096/-.

(iii) The second respondent/Insurance Company is directed to



C.M.A.(MD) No.470 of 2023

deposit the enhanced compensation amount of Rs.26,67,096/-

(less the amount already deposited if any) with interest at 7.5% p.a.

from the date of filing of the claim petition till the date of realisation to the credit of M.C.O.P.No.108 of 2019 on the file of Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Ramanathapuram within a period of eight (8) weeks from the date of receipt of a copy of this Judgment.

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

(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.

29.01.2025

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



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To

1.The Chief Judicial Magistrate,
The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate Court,
Ramanathapuram.

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



C.M.A.(MD) No.470 of 2023



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C.M.A.(MD) No.470 of 2023

R.KALAIMATHI,J

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Pre-delivery order made in
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