

C.M.A.(MD) No. 948 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.01.2025

CORAM:

THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

C.M.A.(MD) No. 948 of 2024

Martin

... Appellant

vs.

The Managing Director,
Tamil Nadu State Transport Corporation,
Rajagopalapuram,
Pudukkottai, NH 226, Manamadurai Road,
Maraimalai Nagar, Pudukkottai.

... Respondent

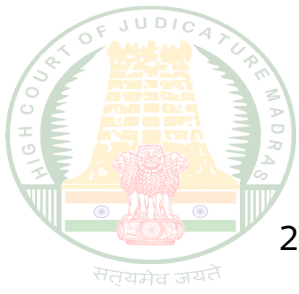
PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the judgment and decree made in M.C.O.P. No. 194 of 2022 on the file of the Motor Accident Claims Tribunal, Special Sub Court Judge, Thanjavur, dated 12.04.2023.

For Appellant : Mr. G. Karnan

For Respondent : Mr. S. Micheal Heldon Kumar

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the claimant herein against the Award dated 12.04.2023 passed in M.C.O.P. No. 194 of 2022 by Special Sub Court for MCOP Cases for enhancement of compensation.

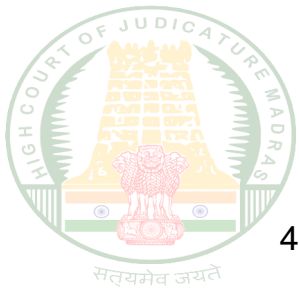


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2. Heard the arguments of learned counsel for the appellant and the learned Standing Counsel for the respondent and perused the relevant records.

3. Upon consideration of oral and documentary evidence and after hearing the arguments advanced by the learned counsel on either side, the Tribunal has passed an award for a sum of Rs.36,09,770/-. The breakup details have been given hereunder: -

Sl. No.	Description	Amount awarded by Tribunal
1	For Disability	Rs.16,93,440/-
2	For Pain and sufferings	Rs.1,00,000/-
3	For Extra nourishment	Rs. 15,000/-
4	For Attender charges	Rs.15,000/-
5	For loss of income	Rs. 30,000/-
6	For loss of amenities	Rs. 50,000/-
7	For damage to clothes	Rs. 5,000/-
8	For Transport expenses	Rs. 15,000/-
9	For Medical expenses	Rs. 15,36,330/-
10	For fixing and maintaining artificial leg	Rs.50,000/-
11	For loss of marriage prospects	Rs.1,00,000/-
	Total	Rs.36,09,770/-



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4. Learned counsel for the appellant would strenuously argue that the notional income fixed by the Tribunal at Rs.7,000/- per month is less and the Tribunal has awarded only Rs.50,000/- for the artificial leg, but for the maintenance of the same, the said amount is insufficient and sought for enhancement of compensation.

5. It has come on record through the evidence of P.W.1 (appellant / claimant) that he was working as a Driver and earning a sum of Rs. 30,000/- per month. At that relevant point of time, the age of the claimant was 21 years. To substantiate about the avocation of the appellant, no document was filed. Date of the accident is 24.12.2021. As per the discharge summary / Ex.P10 issued by the Ganga Hospital, Coimbatore, it appears that the claimant suffered major crush injury over right lower limb and due to the same, right leg above knee was amputated. Besides that, he suffered fracture of Proximal Ulna with radial head dislocation right side. The Medical Board has fixed his disability at 80%. In consideration of the said facts, the appellant at the age of 21 years, lost his right leg above knee. Apart from his personal inconvenience like difficulties in standing, walking and climbing up, he would have to face much difficulties while seeking employment. In consideration of the above said details, his functional disability is fixed at 80%.

6. Upon consideration of above said details, income of the claimant



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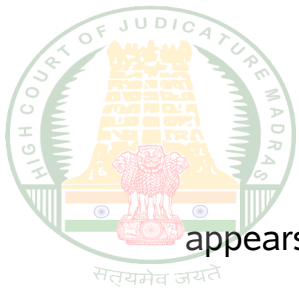
is safely fixed at Rs.10,000/-. As per the law laid down by the Hon'ble Supreme Court in ***National Insurance Co. Ltd., v. Pranay Sethi and others*** reported in ***2017 (2) TN MAC 609 (SC)***, the Honble Supreme Court has standardised the future prospects details while computing the loss of income. For the persons whose age is below 40 years, 40% has to be added as future prospects, while computing the loss of income.

Based on the aforesaid details, loss of future income is computed as follows: -

$$\text{Rs.10,000} + 40\% \times 12 \times 18 \times 80\% = \text{Rs.24,19,200/-}$$

7. As regards the prosthetic leg fixation and for maintenance, an amount of Rs.50,000/- was granted. It is relevant to note that at the age of 21 years, the claimant lost his leg and throughout his life, he has to spend some amount for the artificial leg and for his maintenance. In this regard, though no evidence is available, in order to meet the ends of justice, an amount of Rs.2,00,000/- is granted for fixing and maintaining the artificial leg. In an injury case, loss of future income is computed based on multiplier method, the claimant is not entitled to claim loss of income during treatment period (Rs.30,000/-). For transport expenses, an amount of Rs.25,000/- is granted, in addition to the amount already granted.

8. As regards the other heads, the amounts awarded by the Tribunal



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appears to be reasonable and acceptable and hence, it needs no interference.

9. The compensation awarded by the Tribunal is reworked and tabulated, as herein under: -

Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For loss of future income	Rs.16,93,440/-	Rs.24,19,200/-	Enhanced
2	For Pain and sufferings	Rs. 1,00,000/-	Rs. 100,000/-	Confirmed
3	For Extra nourishment	Rs. 15,000/-	Rs. 15,000/-	Confirmed
4	For Attender charges	Rs.15,000/-	Rs. 15,000/-	Confirmed
5	For loss of income during treatment period	Rs. 30,000/-	Nil	Rejected
6	For loss of amenities	Rs. 50,000/-	Rs. 50,000/-	Confirmed
7	For damages to clothes	Rs. 5,000/-	Rs. 5,000/-	Confirmed
8	For Transport expenses	Rs. 15,000/-	Rs.25,000/-	Enhanced
9	For Medical expenses	Rs. 15,36,330/-	Rs.15,36,330/-	Confirmed
10	For fixing and maintaining artificial leg	Rs.50,000/-	Rs.2,00,000/-	Enhanced
11	For loss of marriage prospects	Rs.1,00,000/-	Rs.1,00,000/-	Confirmed
	Total	Rs.36,09,770/-	Rs.44,65,530/-	
	Rounded off to		Rs.44,66,000/-	

10. Thus, the compensation awarded by the Tribunal is enhanced



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from **Rs.36,09,770/-** to **Rs.44,66,000/-** which would carry interest at the rate of 7.5% per annum.

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11. In the result,

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

(ii) The compensation awarded by the Tribunal is enhanced from **Rs.36,09,770/-** to **Rs.44,66,000/-**.

(iii) The respondent / Transport Corporation is directed to deposit the enhanced compensation amount i.e., **Rs.44,66,000/-** (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit (except default period) to the credit of M.C.O.P.No.194 of 2022 on the file of Motor Accident Claims Tribunal (Special Sub Court Judge), Thanjavur, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the appellant/claimant is permitted to withdraw the same along with interest and costs, less the amount if any already withdrawn, by making necessary cheque application before the Tribunal. The appellant/claimant is directed to pay the Court fee for the enhanced compensation amount, if required. The Tribunal below shall disburse the enhanced amount upon production of the certified copy showing proof of payment of Court fee by the claimant.



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AT

To:

- 1.The Motor Accident Claims Tribunal,
(Special Sub Court Judge) Thanjavur.
- 2.The Managing Director,
Tamil Nadu State Transport Corporation,
Rajagopalapuram, Pudukkottai,
NH 226, Manamadurai Road,
Maraimalai Nagar,Pudukkottai.
- 3.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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R.KALAIMATHI, J.

AT

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