

C.M.A.(MD) No.40 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.01.2025

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.(MD)No.40 of 2015

Stalin

... Appellant

vs.

1. Kumar

2. D.John Nesa Ruban

3. ICICI Lombard General Insurance Corporation Limited,
Zenith House,
Keshavrao,
Mahalaxmi, Khadye Marg,
Mumbai – 400 034

...

Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1973, to set aside the judgment and decree dated 30.08.2012 passed in M.C.O.P.No.70 of 2011 on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate Court, Nagercoil and to enhance the compensation amount.

For Appellant

: Mr.A.Elis Chitra Devi

For Respondents

: No appearance for R1 and R2

: Mr.S.Srinivasa Raghavan for R3



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J U D G M E N T

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This Civil Miscellaneous Appeal has been preferred by the claimant against the award dated 30.08.2012 passed in M.C.O.P.No.70 of 2011 on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate Court, Nagercoil, for enhancement of compensation.

2. Despite the receipt of the notice, the respondents no.1 and 2 neither appeared nor entered appearance through their Counsel.

3. Heard the arguments of the learned counsel for the appellant and the learned counsel for the third respondent.

4. The claimant herein filed a claim petition under Section 166 (a) of Motor Vehicles Act, 1988, claiming compensation of Rs.30,00,000/- for the injuries sustained in a road accident that took place on 10.07.2010.

5. Upon consideration, the Tribunal passed an award of Rs. 2,82,500/- with 7.5% interest from the date of filing of the claim petition. For partial permanent disability – Rs.1,00,000/-, for pain and sufferings – Rs.10,000/-, for extra nourishment – Rs.5,000/-, for transport charges – Rs.3000/-, for loss of income during treatment period – Rs.2,400/-, for



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future medical expenses - Rs.40,000/-, for loss of maintenance – Rs. 25,000/-, for loss of convenience – Rs.25,000/, for repair charges in respect of the vehicle - Rs.40,000/- and for medical expenses Rs. 32,100/- were granted.

6. It has come on record through the evidence of P.W.1 that, on account of the accident he was given initial treatment at Jayasekaran Hospital. Ex.P4 – Wound Certificate report reflects the fact that the claimant suffered fracture of left femur. For further treatment, he was admitted as an inpatient at Kanyakumari Medical Mission C.S.I Hospital, Neyyoor from 23.09.2010 to 29.10.2010. On 12.07.2010 at Neyyoor C.S.I Hospital, he underwent surgery for the fractures of left femur, where implants were fixed over the left femur.

7. Ex.P13 is the income certificate issued by the Revenue Official. During the cross examination of P.W.1, he would state that the said certificate was obtained in order to get exemption from paying court fee. Therefore, the said document was not relied upon by the Tribunal in order to fix his monthly income. P.W.1 would state that he was working as a Carpenter and earning a sum of Rs.15,000/- per month. The date of accident is 10.07.2010. Considering the aforesaid details, income of the claimant is safely fixed at Rs.10,000/- per month. Relying upon the



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testimony of P.W.1 coupled with the medical records, the claimant would have taken rest for four months and a sum of Rs.40,000/- is granted for loss of income during treatment period. For attender charges, an amount of Rs.12,000/- (Rs.3,000/- per month) is granted. As regards the other heads, the amount awarded by the Tribunal appears to be acceptable and reasonable, and those details are not interfered with.

8. The compensation granted by the Tribunal is reworked and tabulated as given hereunder.

Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For partial permanent disability	Rs.1,00,000 /-	Rs.1,00,000/-	Confirmed
2	For pain and sufferings	Rs.10,000/-	Rs.10,000/-	Confirmed
3	For extra nourishment	Rs.5,000/-	Rs.5,000/-	Confirmed
4	For transport charges	Rs.3000/-	Rs.3,000/-	Confirmed
5	For loss of income during treatment period	Rs.2,400/-	Rs.40,000/-	Enhanced
6	For future medical expenses	Rs.40,000/-	Rs.40,000/-	Confirmed
7	For loss of maintenance	Rs.25,000/-	Rs.25,000/-	Confirmed
8	For loss of convenience	Rs.25,000/	Rs.25,000/	Confirmed



Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
9	For repair charges in respect of the vehicle	Rs.40,000/-	Rs.40,000/-	Confirmed
10	For medical expenses	Rs.32,100/-	Rs.32,100/-	Confirmed
11	For attender charges	-	Rs.12,000/-	Granted
	Total	Rs.2,82,500/-	Rs.3,32,100/- Rounded off to Rs.3,32,000/-	Enhanced

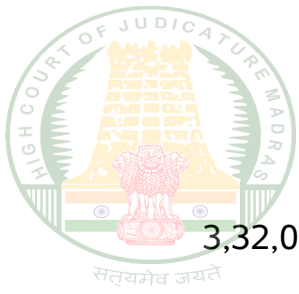
9. Thus, the compensation awarded by the Tribunal is enhanced from Rs.2,82,500/- to Rs.3,32,000/- which would carry interest at the rate of 7.5% per annum from the date of petition till the date of realisation.

10. In the result,

(i) The Civil Miscellaneous Appeal stands allowed. There is no order as to costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.2,82,500/- to Rs.3,32,000/-.

(iii) The second respondent as well as the third respondent / Insurance Company are jointly and severally directed to deposit the enhanced compensation amount now determined by this Court i.e., Rs.



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3,32,000/- (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 to the credit of M.C.O.P.No.70 of 2011 on the file of Motor Accidents Claims Tribunal / Chief Judicial Magistrate Court, Nagercoil, within a period of six weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the claimant is permitted to withdraw the amount now determined by this Court along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal.

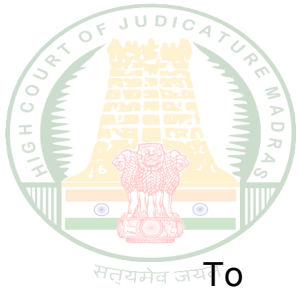
(v) The claimant is directed to pay the Court fee for the enhanced compensation amount, if required.

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

28.01.2025

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

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To

1. The Motor Accident Claims Tribunal,
Chief Judicial Magistrate Court, Nagercoil

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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