



C.M.A.(MD).No.561 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.561 of 2020

P.Abraham Lingan

... Appellant/Claimant

-VS-

1. V.Naveen Kumar

2. N.Pandian

3. The Manager,
Cholamandalam Ms General,
Insurance Company Ltd.,
Door No.3 & 4, 1st Floor,
Dindigul High Road,
Kalavasal,
Madurai Post.

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the order and decreetal order passed in M.C.O.P.No.245 of 2018, dated 12.07.2019 on the file of the Motor Accidents Claims Tribunal/Chief Judicial Magistrate, Srivilliputhur, Virudhunagar District.

For Appellant : Mr.Ashok Kumar

For Respondents : Mr.M.Karthikeya Vehkatachalapathy
for R2



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: Mrs.K.R.Shivashankari – for R3
: Dispensed with - R1

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the claimant seeking enhancement of compensation of the award passed by the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Srivilliputhur, Virudhunagar District, in M.C.O.P.No.245 of 2018.

2. According to the claimant, he met with an accident on 29.06.2018 and he sustained grievous injuries in the maxillary bone and nasal bone. As per the disability certificate viz., Ex.P.15, the claimant has sustained 41% disability.

3. The Tribunal has chosen to award a sum of Rs.4,000/- (Rupees Four Thousand only) per percentage of disability, a sum of Rs.16,230/- (Rupees Sixteen Thousand Two Hundred and Thirty only) towards medical bills, a sum of Rs.36,000/- (Rupees Thirty Six Thousand only) during the treatment period for a period of three months towards loss of income, a sum of Rs.40,000/- (Rupees Forty Thousand only) towards pain and sufferings, a



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sum of Rs.10,000/- (Rupees Ten Thousand only) towards transport expenses and a sum of Rs.15,000/- (Rupees Fifteen Thousand only) towards extra nourishment. Totally, a sum of Rs.2,81,230/- (Rupees Two Lakhs Eighty One Thousand Two Hundred and Thirty only) has been awarded. This award is under challenge in the present appeal seeking enhancement.

4. According to the learned counsel appearing for the appellant, due to the nature of injury, the appellant cannot attend duty for a period of six months. Therefore, loss of income ought to have been calculated for a period of six months. He further contended that he was in hospital for nine days and therefore, attendar charges should have been awarded. The nature of injuries and the treatment given to him indicate that the plate and screws have been implanted in the maxillary bone which require a second surgery for exit of the said implants. Therefore, a sum of Rs.50,000/- should have been awarded for future medical expenses.

5. Per contra, the learned counsel appearing for the third respondent had contended that the Tribunal has properly appreciated all the documents filed on the side of the claimant and has granted reasonable compensation of



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Rs.2,81,230/- which does not warrant any enhancement.

6. I have carefully considered the submissions made by the learned counsel on either side and perused the material on records.

7. A perusal of the Ex.P15, disability certificate and Ex.P.19, wound certificate clearly indicate that the injured claimant has sustained grievous injuries in his face. Therefore, as rightly contended by the learned counsel for the appellant that the appellant could not attend duty for six months. Therefore, this Court is inclined to enhance the compensation under the head of loss of income during treatment for a sum of Rs.36,000/- to Rs.72,000/- Admittedly, he was in hospital for 9 days and he has to undergo a second surgery and therefore, a sum of Rs.10,000/- could be awarded under the head of attendar charges.

8. A perusal of Ex.P.3, discharge summary indicates that the plates and screws have been implanted in the maxillary bone. Therefore, it is clear that the claimant has to undergo second surgery and this Court awards a sum of Rs.25,000/- for future medical expenses.



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9. In view of the above said deliberations, the award of the Tribunal is modified as follows:

Partial Permanent Disability	: Rs.1,64,000/-
Medical Expenses	: Rs. 16,230/-
Loss of income during treatment	: Rs. 72,000/-
Pain and Sufferings	: Rs. 40,000/-
Transport Expenses	: Rs. 10,000/-
Extra Nourishment	: Rs. 15,000/-
Attendar charges	: Rs. 10,000/-
Future Medical Expenses	: <u>Rs. 25,000/-</u>
Total	: Rs.3,52,230/-

10. Therefore, the award of the Tribunal is hereby modified and enhanced from Rs.2,81,230/- to Rs.3,52,230/- (Rupees Three Lakhs Fifty Two Thousand Two Hundred and Thirty only) and the said amount will carry interest at the rate of 7.5% per annum from the date of the claim petition till the date of realisation. The Insurance Company is directed to deposit the enhanced award amount within a period of eight weeks from the date of



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receipt of a copy of this order.

11. Accordingly, this Civil Miscellaneous Appeal is partly allowed to the extent as stated above. There shall be no order as to costs.

27.06.2023

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

1. The Motor Accidents Claims Tribunal/
Chief Judicial Magistrate,
Srivilliputhur, Virudhunagar District.

2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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