

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2015

CORAM :

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

CMA No.3300 of 2014

and

CMA No.1081 of 2015

&

M.P.No.1 of 2015

T.K.Kuppusamy

...Appellant in CMA No.3300/2014 &
1st Respondent in CMA No.1081/2015/Petitioner

vs.

1.Balakrishnan

...1st Respondent in CMA No.3300/2014 &
2nd Respondent in CMA No.1081/2015/Respondent

2.Divisional Manager,
National Insurance Company Ltd.,
Door No.110, J.N. Street,
Puducherry - 605 001.

...2nd Respondent in CMA No.3300/2014 &
Appellant in CMA No.1081/2015/Respondent

Common Prayer :- Civil Miscellaneous Appeals filed under Section 173 of M.V. Act 1988 against the judgment and decree dated 26.02.2014 made in MCOP No.335 of 2012 on the file of Motor Accident Claims Tribunal (Principal District Judge), Cuddalore.

For Appellant : Ms.S.Kalyanaraman
in CMA 3300/2014
& 1st Respondent in
CMA 1081/2015

For 2nd Respondent : Mr.S.Arunkumar
in CMA 3300/2014
& Appellant in
CMA 1081/2015

COMMON JUDGMENT

The claimant is before this court by way of appeal for enhancement of compensation awarded by the tribunal for the disability sustained by the claimant out of the injuries sustained by him in the accident occurred on 22.09.2011. Similarly, the Insurance Company is by way of another appeal against the quantum of compensation awarded by the tribunal.

2. Heard Mr.S.Kalyanaraman, learned counsel appearing for the claimant and Mr.S.Arunkumar, learned counsel appearing for the insurance company.

3. Since both the appeals are filed only questioning the quantum of compensation awarded by the tribunal, this court decides that particular aspects alone by way of this common judgment.

4. The injuries sustained by the claimant is fracture of right femur occipital nasal bones and malunion of above bones. Therefore, PW2- doctor , based on medical records found that the permanent disability is to the tune of 40% and because of the head injury, the claimant is unable to lift heavy materials and there is a subsisting pain in the nasal bones. However, the tribunal adopted multiplier method taking Rs.6000/- as the monthly income and multiplier 14 according to the age of the claimant. Admittedly, in this case, there is no loss of income as the claimant is continuing his work. Therefore, adoption of multiplier method for determining loss of income is unwarranted and the same is set aside.

5. Awarding Rs.3,000/- per percentage of disability for 40%, this court awards a sum of Rs.1,20,000/- under the head disability. Rs.10,000/- awarded towards pain & suffering is too low and the same is enhanced to Rs.30,000/-. Similarly, Rs.5,000/- each awarded towards extra nourishment and transportation is hereby enhanced to Rs.25,000/- and Rs.10,000/- respectively. No amount was awarded towards attender charges and therefore Rs.10,000/- is awarded under this head as the claimant was inpatient for 15 days. However, Rs.6,000/- awarded towards loss of income is reasonable and the same is confirmed. Thus, the amount of Rs.3,28,400/- awarded by the tribunal is hereby reduced to Rs.2,01,000/-, rounded off to Rs.2,00,000/-, break-up as follows -

(1) Disability	Rs.1,20,000/-
(2) Pain & Sufferings	Rs. 30,000/-
(3) Extra nourishment	Rs. 25,000/-
(4) Transportation	Rs. 10,000/-
(5) Attender charges	Rs. 10,000/-
(6) Loss of income for one month	Rs. 6,000/-
Total	Rs.2,01,000/-

Rounded off to Rs.2,00,000/-.

The rate of interest awarded by the tribunal shall remain unaltered.

6. In the result, the C.M.A.No.1081 of 2015 filed by the Insurance Company is partly allowed and C.M.A.No.3300 of 2014 filed by the claimant is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

7. The Insurance company is directed to deposit the entire amount awarded by this Court alongwith interest and costs, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the claimant is permitted to withdraw the same.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

The Principal District Judge,
Motor Accident Claims Tribunal,
Cuddalore.

1 CC to Ms.S.Kalyanaraman, Advocate SR.No. 29632

CMA No.3300 of 2014
and CMA No.1081 of 2015

NM (CO)
PSI (09.07.2015)



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