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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2017

CORAM:

CORAM : THE HONOURABLE Mr. JUSTICE N.SESHASAYEE

CMA.No.97 of 2011

C.Vinayagamurthy ...Appellant/Claimant

Vs.

1.P.Vendhan

2.Iffco Tokioa General Insurance Company Limited
II Floor, No.28 (Old No.195)
North Usman Road,
T.Nagar,
Chennai - 17.

3.P.Srinivasan

4.Iffco Tokio General Insurance Company Limited
II Floor, No.28 (Old No.195)
North Usman Road,
T.Nagar,
Chennai - 17.

...Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 08.9.2010 made in MACT.OP.No.520 of 2006 on the file of the Motor Accident Claims Tribunal, (Principal Sub Court), Villupuram.

For Appellant :Mr.C.Munusamy
For Respondents :Mr.N.Vijayaraghavan [R2 & R4]
For 1st Respondent: No Appearance
For 3rd Respondent: Not ready in Notice

JUDGMENT

This is an appeal filed by the injured claimant C.Vinayagamurthy against the award dated 08.09.2010 made in MCOP.No.520 of 2006 on the file of the Motor Accident Claims Tribunal (Principal Sub Court), Villupuram for Rs.85,000/- with interest and costs seeking enhancement of the claim by a further Rs.4,00,000/-



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2. The injured claimant met with an accident on 11.4.2006 and for assessed/accepted disablement of 45% arising out of fracture on the right shoulder, the Tribunal has awarded as follows :

TABLE-A

Heads	Amount Awarded (Rs.)
Permanent disablement	45,000/-
Pain and suffering	10,000/-
Extra nourishment	10,000/-
Transport Expenses	5,000/-
Loss of income	15,000/-
Total :	85,000/-

3. The counsel for the claimant contended that the award is very low and it deserved to be enhanced under each head. Per contra, the counsel for the second respondent/insurer submitted that the injuries were not so grievous and based on the awards as on 11.4.2006 - the date of accident, it cannot be said to be too low.

4. This Court has given its careful consideration. There is no dispute on liability. Only quantum needs to be addressed. While so, on the face of it, once the disability is accepted at 45%, which is not assailed by the insurer, as per decision of this Court in National Insurance Co. Ltd., Vs. G.Ramesh reported in [2013 (2) TNMAC 583 (Mad)] - Rs.3,000/- per percentage has become the norm or standard for assessment under this head. Besides the

sums assessed towards pain and suffering, loss of income etc., seem to be too low considering the accepted disablement suffered by the injured. The counsel for insurer could not argue against the need for enhancement in the light of the medical evidence on record and the principles applicable for assessment of compensation in this particular case. Upon careful scrutiny, this Court has come to the conclusion that the award deserves to be enhanced and modified in terms herein below vide Table-B.

TABLE-B

Heads	Amount Awarded (Rs.)
Permanent disablement - 45% @ Rs.3,000/- per percentage	1,35,000/-



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Heads	Amount Awarded (Rs.)
Pain and suffering	25,000/-
Extra nourishment	10,000/-
Transport Expenses	5,000/-
Loss of income	25,000/-
Total :	2,00,000/-

5. This Court is of the view that the appeal deserves to be allowed by enhancing the award from Rs.85,000/- plus interest to Rs,200,000/- plus interest payable at 7.5% per annum on and from the date of claim petition.

6. In fine, the appeal stands allowed and the award of the Tribunal is enhanced and modified from Rs.85,000/- with interest to Rs.2,00,000/- with interest at 7.5% per annum on and from the date of claim petition. The second respondent/insurer shall deposit the enhanced award of Rs.1,15,000/- with proportionate interest within four weeks from the date of receipt of a copy of this order. The appeal shall stand allowed in terms of this order. There shall be no orders as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ds

To

1.The Principal Sub Court,
Motor Accidents Claims Tribunal,
Villupuram.

2.The Section Officer,
VR Section,
High Court, Madras

+1cc to Mr.Munusamy, Advocate, S.R.No.8292
+1cc to Mr.Gopalan, Advocate, S.R.No.8459

CMA.No.97 of 2011

ALA(CO)
RS(04/04/2017)