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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2020

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.1354 of 2016

and

CMP No.10451 of 2015

M/s.Champion Plastics India Pvt. Ltd.,
E-28, E-29, Sidco Industrial Estate Phase VI,
Hosur, Pin 635 126.

...Appellant/Respondent

Vs

Munivel

...Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Decree and Judgment dated 07.10.2014 made in M.C.O.P.No.304 of 2013 on the file of the Motor Accident claims Tribunal, Sub Court, Hosur, Dharmapuri District.

For Appellant : No Appearance

For Respondents : Mr.K.Prasanna
for M/s.Mukund R.Pandian

J U D G M E N T

(The case has been heard through Video Conferencing)

This appeal is arising out of the Tribunal award fastening the liability on the appellant to pay a sum of Rs.3,62,522/- as compensation for the accident occurred, while rider of the motor cycle owned by the appellant company dashed against the claimant, who was riding his bicycle.

2. The point canvassed in the appeal is that for a fracture in tibia bone, the Tribunal has assessed the disability as 40% and awarded Rs.1,20,000/-. In addition, it has also awarded Rs.20,000/- for future medical expenses and Rs.50,000/- for future disability, when there is no evidence to show that the claimant requires future medical care. The compensation of Rs.36,000/- for loss of income for six months is also questioned in this appeal.



3. On perusing the record, this Court finds force in the appeal. The Tribunal has awarded Rs.1,20,000/- towards permanent disability based on Ex.P7 given by the Doctor, who treated the claimant. The injury sustained by the claimant is fracture of right leg tibia and also, he has sustained head and facial injuries. Therefore, relying upon the opinion given by the Doctor that the injury would have caused 50% disability, the Tribunal has fixed the disability at 40% and awarded Rs.1,20,000/-. But when there is no evidence to show that there is need for future medical treatment, the Tribunal has gone to an extent to award a sum of Rs.20,000/- for future medical expenses and Rs.50,000/- for future disability, which in the opinion of this Court is unwarranted.

4. As far as loss of income for six months, though there is no sound basis that the claimant has lost his income for six months due to the injury, taking note of the nature of the injury, the award of Rs.36,000/- towards loss of income during the treatment period is left unaltered.

5. As a result, the civil miscellaneous appeal is partially allowed by fixing the compensation as below:

Compensation under Various Heads	Award passed by this Court
Part Permanent Disability	Rs.1,20,000/-
Loss of income for six months	Rs. 36,000/-
Pain and Suffering	Rs. 30,000/-
Medical Bills	Rs. 68,522/-
Transport Expenses	Rs. 10,000/-
Servant Expenses	Rs. 18,000/-
Food Nourishment	Rs. 10,000/-
Total	Rs. 2,92,522/-

The said amount shall carry interest at the rate of 7.5% p.a. from the date of numbering the petition till the date of deposit. The appellant is directed to deposit the money within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant shall withdraw the same on filing appropriate application.



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6. Accordingly, the Civil Miscellaneous Appeal is partly allowed. No order as to costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

vri

To

The Motor Accident claims Tribunal,
Sub Court, Hosur,
Dharmapuri District.

Copy to:
The Section Officer,
VR Section, High Court,
Madras-104.

+1cc to Mr.Mukund R.Pandiyan, Advocate, S.R.No.37443

CMA NO.1354 OF 2016

PA(CO)
CB(19/08/2021)