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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMA.No.1695 of 2015

Subramanian

... Appellant/Petitioner

Vs.

1.Saravana Kumar

2.M/s.Reliance General Insurance Company Limited,
Sri Lakshmi Complex, Bharathi Street,
Omalar Main road, Swarnapuri,
Salem - 636 004.

... Respondents/Respondents

(The first respondent remained ex-parte before the Tribunal, hence notice may be dispensed with for the first respondent in this appeal)

PRAYER: This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in MCOP.No.174 of 2013, on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Namakkal, dated 07.01.2015.

For Appellant : Mr.Ma.P.Thangavel
For R2 : Mr.S.Arunkumar

JUDGMENT

(The case has been heard through video conference)
The claim petitioner is the appellant herein.

2.For the injuries sustained in the accident took place on 11.08.2012, the appellant herein/claim petitioner has filed a petition in MCOP.No.174 of 2013, on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Namakkal, seeking compensation and the Tribunal has awarded a sum of Rs.2,26,138/- as compensation. Aggrieved against the same, this Civil Miscellaneous Appeal has been filed by the claim petitioner, seeking enhancement of compensation.

3.The factum of the accident, manner of the accident, rash and negligent driving of the driver of the offending vehicles are not under dispute.



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4. Before the Tribunal, during the course of Trial, on the side of the petitioner, PW1 & PW2 have been examined and marked Exs.P1 to P14 and on the side of the respondents no oral or documentary evidence has been filed.

5. On the point of quantum of compensation, heard both the learned counsels and perused the materials placed on record.

6. The injured/claim petitioner was working as a Junior Assistant at the District Treasury, Namakkal. PW2/Dr.Parthiben on examination of the injured, after perusing Ex.P3/discharge summary and Ex.P11/X-ray, had issued Ex.P14/disability certificate.

7. After going through the injuries sustained by the claim petitioner as reflected in Ex.P3/discharge summary, it is seen that the claim petitioner was initially taken treatment at Balaji Hospital, Namakkal for first aid and subsequently, admitted in Neuro Foundation Hospital, Salem for treatment. Further it is also seen that he has sustained multiple grievous injuries, compound fractures in his head, face, both hands, eyes and some other injuries all over his body.

8. Taking into consideration the evidence of PW1/claim petitioner, coupled with the evidence of PW2/Doctor, read along with Ex.P3/discharge summary, I find that the disability suffered by the claim petitioner is partial and permanent in nature and hence, this Court is inclined to fix the partial and permanent disability sustained by the claim petitioner at 38% and also inclined to award a sum of Rs.2,000/- for one percentage disability and the same is calculated as under:

$38\% \times 2,000/- = \text{Rs.}76,000/-$.

9. As per Ex.P3/discharge summary, it is seen that the claim petitioner has taken treatment as inpatient for some time and accordingly, this Court is inclined to award a sum of Rs.10,000/- under the head of attender charges. Considering the nature of the injuries sustained and also Ex.P8/posting order of PW1, this Court finds that the claim petitioner has taken rest for three months and hence for partial loss of earning is calculated as under:

$\text{Rs.}15,000/- \times 3 = \text{Rs.}45,000/-$.

and accordingly, the compensation under various heads are enhanced as under:



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S.No.	Description	Amount awarded by the Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1	Partial loss income	---	45,000/-
2	Partial and permanent disability	40,000/-	76,000/-
3	Attender charges	---	10,000/-
4	Transportation charges	10,000/-	15,000/-
4	Extra Nourishment	5,000/-	10,000/-
5	Medical expenses	1,66,138/-	1,66,138/-
6	Pain and sufferings	5,000/-	10,000/-
	Total	2,26,138/-	3,32,138/-

Hence, compensation awarded by the Tribunal is enhanced from Rs.2,26,138/- to Rs.3,32,138/- (Rupees Three Lakhs Thirty Two Thousand One Hundred and Thirty Eight Only)

10. In the result,

(a) This Civil Miscellaneous Appeal stands partly allowed to the limited extent as indicated above.

(b) Both the respondents are jointly and severally liable to deposit the enhanced compensation amount of Rs.3,32,138/- (Rupees Three Lakhs Thirty Two Thousand One Hundred and Thirty Eight Only), to the credit of MCOP.No.174 of 2013, on the file of the Chief Judicial Magistrate, within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount already deposited, if any.

(c) The award amount will carry interest at the rate of 7.5% per annum.

(d) On such deposit, the claim petitioner is permitted to withdraw the enhanced compensation amount, less the amount already withdrawn, if any.

(e) The claimants shall pay necessary Court fee, if any, on the enhanced compensation amount.

(f) No costs.

Sd/-

Deputy Registrar (AD-II)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accident Claims Tribunal,
Chief Judicial Magistrate Court, Namakkal.

Copy to:
The Section Officer,
V.R.Section,
High Court, Madras.

+lcc to Mr.S.Arun Kumar, Advocate, S.R.No.17472
+lcc to Mr.Ma.P.Thangavel, Advocate, S.R.No.17439

CMA.No.1695 of 2015

KV(CO)
CB(20/10/2021)