

C.M.A.No.1642 of 2020
and
C.M.P.No.12096 of 2020

(Through Video Conferencing)

C. SARAVANAN, J.

This case was listed today under the caption “for clarification” at request of the learned counsel for the appellant Insurance Company. Even today, there is no representation on behalf of the respondents.

2. The learned counsel for the appellant Insurance Company submits that there is a calculation error in the order and therefore submits that suitable corrections may be incorporated.

3. I have heard the learned counsel for the appellant Insurance Company. I have also perused the calculation made in the order.

4. This appeal was partly allowed on 22.04.2021. While transcribing the order, the amount of Rs.1,61,280/- has been wrongly added under the head of Loss of Future Income which was to be deleted in the order as the Loss of Income during the period of treatment has been increased from

Rs.45,000/- to Rs.1,12,500/-. There is no scope for awarding amount towards Loss of Future Income for the injuries suffered by the first respondent / claimant.

5. Accordingly, the amount of compensation awarded stands modified and the paragraph Nos.5 to 9 shall substituted as follows:-

5. I have considered the arguments advanced by the learned counsel for the appellant / Insurance Company. I have also perused the documents marked before Tribunal as Exhibits.

6. The evidence on record shows that the 1st respondent / claimant suffered fracture near on his right ankle, grievous injuries on his right hand, left shoulder, head, back and injuries all over the body. Ex.P6 also shows that the 1st respondent/claimant was WD Plating of Lateral Malleolus.

7. There is no scope for awarding amount towards Loss of Future Income for the injuries suffered by the first respondent / claimant. Therefore, a sum of Rs.1,61,280/- awarded under the head of Loss of Future Income is to be deleted.

8. At the same time, the Tribunal has considered a very meager notional income of the 1st respondent / claimant as Rs.8,000/- per month. Considering the date of the accident, the notional income of the 1st respondent / claimant is increased to Rs.12,500/- per month for the purpose of awarding just compensation.

9. The nature of injury would have put the 1st respondent / claimant from out of action for a period of 9 months at least. Therefore, the compensation awarded towards Loss of Income during the period of treatment is increased to Rs.1,12,500/- (Rs.12,500 x 9) from Rs.45,000/-.

10. Since the Tribunal has not awarded any amounts towards loss of amenities, this Court is inclined to award a sum of Rs.15,000/- under the head of loss of amenities. Further, a sum of Rs.5,000/- awarded towards Extra Nourishment and a sum of Rs.1,000/- awarded towards Attender Charges appear to be low and therefore, same are increased to Rs.10,000/- each. The compensation awarded under the other conventional heads need not to be disturbed in this Judgment.

11. Accordingly, the compensation awarded by the Tribunal is re-quantified as follows:-

Sl. No.	Heads	Amount
1	Injuries (Rs.3,000/- x 12)	Rs. 36,000/-
2	Loss of Income during the period of treatment (Rs.12,500/- x 9)	Rs.1,12,500/-
3	Pain and Sufferings	Rs. 25,000/-
4	Loss of Discomfort	Rs. 20,000/-
5	Transportation	Rs. 10,000/-
6	Extra Nourishment	Rs. 10,000/-
7	Loss of Amenities	Rs. 15,000/-
8	Attender Charges	Rs. 10,000/-
Total		Rs.2,38,500/-

12. Therefore, the appellant/Insurance Company is directed to deposit the above re-quantified amount of compensation of Rs.2,38,500/- together with interest at 7.5% per annum from the date of claim petition till the date of deposit and costs, less any amount already deposited by it, within a period of six weeks from the date of receipt of a copy of this Judgment.

13. On such deposit being made by the appellant / Insurance Company, the 1st respondent / claimant is permitted to withdraw the same together with interest and costs, less any amount already withdrawn, by filing suitable application before the Tribunal.

14. Accordingly, this Civil Miscellaneous Appeal stands partly allowed. No cost. Consequently, connected Miscellaneous Petition is closed.

6. Registry is directed to carry out the above corrections and issue order copy to the parties with the corrections.

06.07.2021

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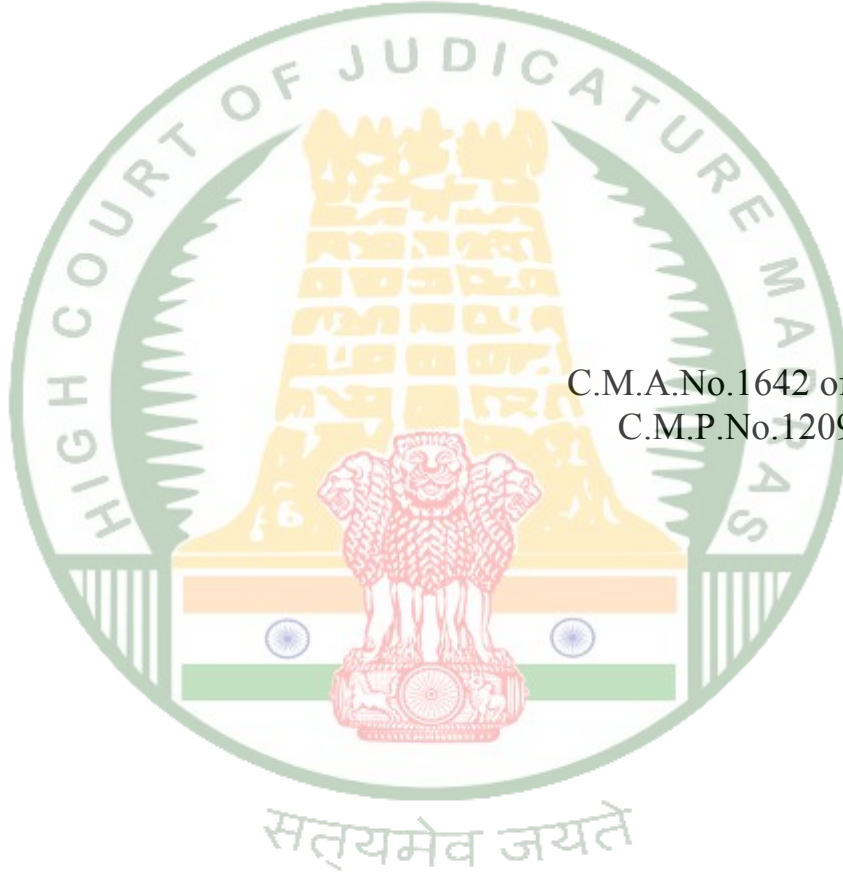


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C.SARAVANAN, J.

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1642 of 2020

and

C.M.P.No.12096 of 2020

(Through Video Conferencing)

The Divisional Officer,
M/s New India Assurance Co. Ltd.,
No.30, Jawarharlal Nehru Street,
Pondy.

... Appellant

Vs.

1.Panneerselvam,
S/o.Periyasamy
2.Sakthi Agencies,
Thiru-Vi-Ka Industrial Estate,
Guindy, Chennai – 600 032.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 15.07.2019 made in M.C.O.P.No.39 of 2017 on the file of the Motor Accidents Claims Tribunal (Principal Subordinate Judge) at Vridhachalam.

For Appellant : Mr.R.Sreevidhya

For R1 : No appearance

JUDGMENT

Though notice has been served on the 1st respondent/claimant, there is no representation on his behalf. Hence this appeal is taken up for final hearing.

2. The Insurance Company is the appellant in this appeal and is aggrieved by the impugned Judgment and decree dated 15.07.2019 passed by the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Vridhachalam in M.C.O.P.No.39 of 2017.

3. By the impugned Judgment and decree, the Tribunal has awarded a sum of Rs.3,03,280/- as compensation to the 1st respondent/claimant under the following heads:-

<i>Heads of Compensation</i>	<i>Amount Awarded by the Tribunal</i>
Loss of Future Income	Rs.1,61,280/-
Permanent Disability	Rs. 36,000/-
Loss of Income during the treatment period	Rs. 45,000/-
Pain and Sufferings	Rs. 25,000/-
Loss of Discomfort	Rs. 20,000/-
Transportation Charges	Rs. 10,000/-
Extra Nourishment	Rs. 5,000/-

<i>Heads of Compensation</i>	<i>Amount Awarded by the Tribunal</i>
Attender Charges	Rs. 1,000/-
Total	Rs.3,03,280/-

4. The learned counsel for the appellant/Insurance Company submits that the Tribunal erred in awarding a sum of Rs.1,61,280/- towards loss of future income at Rs.8,000/- per month. It is submitted that the 1st respondent/claimant is an agriculturalist who stated that he was earning Rs.15,000/- per month. However, there is no documents to establish/substantiate the same.

5. I have considered the arguments advanced on behalf of the appellant. I have also perused the documents marked as exhibits before the Tribunal. The Tribunal has considered a very meagre notional income of Rs.8,000/- per month of the 1st respondent/claimant. It should have considered a slightly higher notional income of the 1st respondent/claimant, even if no documents were filed to substantiate the same. Thus, the compensation that would have been awarded much higher. Since, no appeal has been filed by the 1st respondent/claimant, I am not disturbing the compensation in award baring a minor enhancement.

6. Considering the nature of injuries suffered by the 1st respondent/claimant, this Court is inclined to modify the compensation as follows:-

Heads and calculation	Amount
Loss of Future Income	Rs. 1,61,280/-
Permanent Disability at 12%	Rs. 36,000/-
Loss of Income	Rs. 75,000/-
Pain & Sufferings	Rs. 25,000/-
Towards Discomfort	Rs. 20,000/-
Transportation Charges	Rs. 10,000/-
Extra Nourishment	Rs. 10,000/-
Attender Charges	Rs. 10,000/-
Loss of Amenities	Rs. 15,000/-
Total	Rs. 3,62,280/-

7. The appellant/Insurance Company is directed to deposit the above re-quantified amount of compensation of Rs.3,62,280/- together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of such deposit, less any amount already deposited by it, within a period of six weeks from the date of receipt of a copy of this Judgment.

8. On such deposit being made by the appellant/Insurance Company, the 1st respondent/claimant is permitted to withdraw the same together with interest accrued thereon, less any amount already withdrawn in the same proportion as was ordered by the Tribunal.

9. This Civil Miscellaneous Appeal stands partly allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

22.04.2021

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Internet : Yes / No

Index : Yes/No

Speaking Order/Non-speaking Order

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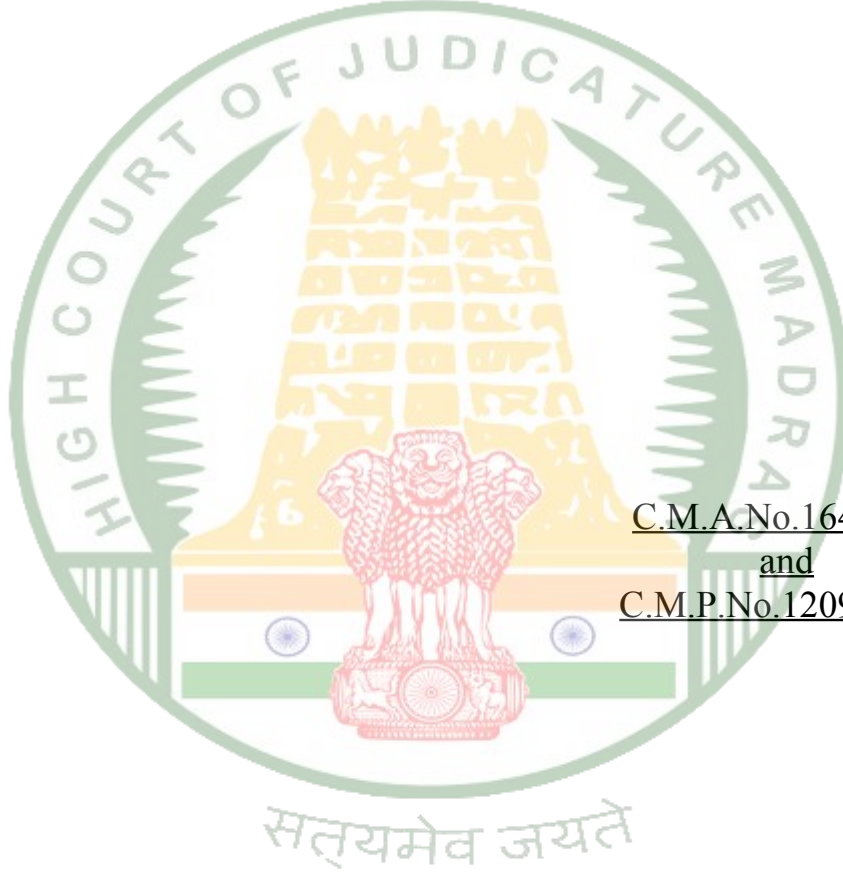
1.The Motor Accidents Claims Tribunal,
Principal Subordinate Judge,
Vridhachalam.

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

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