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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2021

CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.178 of 2016
and
C.M.P.No.1647 of 2016

The New India Assurance Co.Ltd.
N.S.Towers, Ist Floor,
Near Stadium Bus Stand,
Kovai Road, Kunnathur Medu,
Palakadu, Kerala State - 678 013. ...Appellant / 2nd Respondent

Vs

1.Sathishkumar ...1st Respondent / Claimant
2.K.Mani ...2nd Respondent / 1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of M.V.Act, 1988, against the Judgement and Decree dated 19.06.2015 made in M.C.O.P.No.63 of 2012 on the file of Motor Accident Claims Tribunal (Subordinate Judge) at Sathiyamangalam.

ForAppellant : M/s.Sree Vidhya

For Respondents : No appearance

J U D G M E N T

The appeal preferred by the Insurance Company on the question of quantum only and hence, the manner of the accident and the place of accident are not gone in to, being admitted.

2.After perusing the Ex.P4 - Accident Register, Ex.P5 Wound Certificate and Ex.P8-Discharge Summary coupled with the evidence of PW4 - Doctor, the Tribunal has arrived at the finding that 48% of permanent disability has been sustained by the claimant. However, since it has not resulted in any loss of



earning capacity, since the claimant is working in the very same post, after the accident and surgery, the Tribunal has rightly negatived the loss of earning capacity, assume significance.

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3. Based upon the Ex.P6 series and also the Ex.P7 & Ex.P8- Discharge Summary, the Tribunal has awarded Medical Expenses to the tune of Rs.5,53,521/- which is based upon the actual bill produced before the Court and hence the said quantum is hereby confirmed and transportation bills have also been produced and the same is confirmed.

4. Considering the nature of the surgery and the period of rest advised for the claimant, the award of Rs.1,00,000/- towards Pain and Suffering is reduced to Rs.25,000/- and the amount awarded towards future medical expenses is reduced to Rs.3,00,000/-. Since the petitioner was advised to take six months rest, based upon the Salary Slip, it is seen that the monthly income of the claimant is Rs.21,253/-. Hence, the compensation awarded towards loss of income for during the period of treatment is reduced from Rs.2,33,783/- to Rs.1,27,518/-(Rs.21,253/- x 6). Hence, the compensation awarded by the Tribunal is modified as follows:

S. No.	Description	Amount awarded by the Tribunal	Amount awarded by this Court
1	Pain and Sufferings	Rs.1,00,000/-	Rs.25,000/-
2	Medical Expenses	Rs.5,53,521/-	Rs.5,53,521/-
3	Transportation Expenses	Rs.27,200/-	Rs.27,200/-
4	Attender Charges	Rs.10,000/-	Rs.10,000/-
5	Future Medical Expenses	Rs.7,00,000/-	Rs.3,00,000/-
6	Loss of Income	Rs.2,33,783/-	Rs.1,27,518/-
	Total	Rs.16,24,505/-	Rs.10,43,239/- with 7.5% interest

5. In the result:-

(i) This Appeal is partly allowed. Consequently, connected Miscellaneous Petition is closed.

(ii) The appellant-New India Assurance Company is directed to deposit the entire compensation, including interest



at 7.5 % from the date of claim petition till the date of payment, and costs, as awarded by the Tribunal, within a period of eight weeks from the date of receipt of a copy of this judgment, after deducting the amount, if any already deposited.

(iii) On such deposit, the claimant is permitted to withdraw the compensation amount in accordance with law. No costs.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

kmm

To

The Motor Accident Claims Tribunal (Subordinate Judge),
Sathiyamangalam.

Copy To

The Section Officer,
V.R. Section,
High Court, Madras.

+1cc to Mrs.R.Sreevidhya, Advocate SR.No.966

C.M.A.No.178 of 2016

SSI(CO)
RVM(08/09/2021)