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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2021

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2036 of 2016

C.Nallasivam

...Appellant

Vs

1.Virupannara Ganesh

2.The Managing Director,  
VRL Logistics Ltd.,  
No.4, Bangalore Road,  
Varur, Hubli,  
Aralikatti,  
Karnataka.

3.The New India Assurance Ltd.,  
Having Office at H.O.87,  
M.G.Road, Fort,  
Mumbai - 400 001.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Award of the Motor Accident Claims Tribunal (Sub Court), Perundurai, in M.C.O.P.No.101 of 2014 dated 02.09.2015.

For Appellant : Mr.P.Parthi Kannan  
For Respondents: R1 - not known  
Mr.L.Rajasekar for R2 - NA  
Ms.R.Sree Vidhya for R3

#### J U D G M E N T

(This case was heard Video Conferencing)

This appeal has been filed by the claimant seeking for enhancement of compensation under the impugned Award dated 02.09.2015 passed by the Motor Accident Claims Tribunal, (Sub Court), Perundurai in M.C.O.P.No.101 of 2014.

2.The Tribunal under the impugned Award directed the respondents to pay the Appellant/claimant a compensation of Rs.2,87,388/- together with interest and costs as detailed hereunder:



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| Head                                    | Amount awarded by the Tribunal |
|-----------------------------------------|--------------------------------|
| Loss of earning during treatment period | Rs.25,000                      |
| Transport to hospital                   | Rs.10,000                      |
| Extra nourishment                       | Rs.10,000                      |
| Medical expenses                        | Rs.1,00,388                    |
| Pain and suffering                      | Rs.50,000                      |
| Permanent disability 46%<br>Rs.2,000    | Rs.92,000                      |
| Total                                   | Rs.2,87,388/-                  |

3.Heard Mr.P.Parthi Kannan, learned counsel for the Appellant and Ms.R.Sree Vidhya, learned counsel for the third respondent.

4.The Appellant/claimant has sustained the following injuries:

- (a) Multiple fracture in his right leg and pelvis area
- (b) Injuries all over his body.

5.The Doctor has assessed the disability of the Appellant/claimant at 46%.

6.This Court has also perused and examined the disability certificate which has been marked as Ex.P17 before the Tribunal and is of the considered view that the Tribunal has rightly assessed the disability of the Appellant/claimant at 46%.

7.The Tribunal has awarded a compensation of Rs.25,000/- towards loss of earning to the Appellant/claimant during treatment period, Rs.10,000/- towards transport to hospital, Rs.10,000/- towards extra nourishment, Rs.1,00,388/- based on medical bill produced by him towards medical expenses, Rs.50,000/- towards pain and suffering which in the considered view of this Court is a just compensation and there is no scope for interference with regard to the same. However, the Tribunal has failed to take into consideration the year of the accident which happened in the year 2014 before assessing the disability compensation of the Appellant/claimant. The Tribunal under the impugned Award has assessed the disability compensation at Rs.92,000/- calculated at Rs.2,000/- per percentage of disability for the 46% disability which in the considered of this Court is low and it has to be enhanced to Rs.3,000/- per percentage of disability. Accordingly, this Court enhances the



disability compensation to Rs.1,38,000/- by this Court instead of Rs.92,000/- fixed by the Tribunal.

8. For the foregoing reasons, the compensation awarded by the Tribunal under the impugned Award is enhanced to Rs.3,33,388/- from Rs.2,87,388 by this Court as detailed hereunder:

| Head                                    | Amount awarded by the Tribunal | Modified/enhanced by this Court |
|-----------------------------------------|--------------------------------|---------------------------------|
| Loss of earning during treatment period | Rs.25,000                      | Rs.25,000                       |
| Transport to hospital                   | Rs.10,000                      | Rs.10,000                       |
| Extra nourishment                       | Rs.10,000                      | Rs.10,000                       |
| Medical expenses                        | Rs.1,00,388                    | Rs.1,00,388                     |
| Pain and suffering                      | Rs.50,000                      | Rs.50,000                       |
| Permanent disability 46%<br>Rs.2,000    | Rs.92,000                      | Rs.1,38,000<br>(46x 3,000)      |
| Total                                   | Rs.2,87,388/-<br>-             | Rs.3,33,388/-<br>-              |

9. In the result, the appeal is partly allowed. The third respondent Insurance Company is directed to deposit the modified award amount of Rs.3,33,388/- as assessed by this Court together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P.No.101 of 2014 on the file of the Motor Accident Claims Tribunal, (Sub Court), Perundurai, within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellant /claimant through RTGS, within a period of two weeks thereafter. The requisite Court fee, if any has to be paid by the appellant/claimant before receiving the copy of this Judgment. No costs.

s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar

pam



To

1. The Motor Accident Claims Tribunal  
(Sub Court), Perundurai.

Copy to

The Section Officer

V.R. Section, High Court of Madras.

+1 CC to Mr.S. Kaithamalai Kumar, Advocate sr 29962.

+1 CC to Mr.L.Rajasekar, Advocate sr 29948

+1 Cc to M/s. R. Sreevidya, Advocate sr 30479.

C.M.A.No.2036 of 2016

VSNII (CO)

SP(29/10/2021)