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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.Nos.348 & 946 of 2020

and

C.M.P.No.5913 of 2020

C.M.A.No.348 of 2020

P.Selvam,
S/o.Paramasivam

... Appellant/Petitioner

Vs.

1. N.Kasirajan,
S/o.Natarajan

2. The New India Assurance Company Ltd.,
Motor TP HUB, Mochi Complex,
Jawaharlal Nehru Salai,
Pondicherry.

... Respondents/Respondents

CMA.No.946 of 2020

The New India Assurance Company Ltd.,
Motor TP HUB, Mochi Complex,
Jawaharlal Nehru Salai Puducherry.

... Appellant/2nd Respondent

Vs.

1. P.Selvam
S/o.Paramasivam

...1st Respondent/Petitioner

2. N.Kasirajan,
S/o.Natarajan

...2nd Respondent/1st Respondent

Common Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.No.112 of 2017, dated 28.08.2019 on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Judge at Virudhachalam.



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In C.M.A.No.348 of 2020

For Appellant : Mr.S.Udaya Kumar

For Respondents

For R1 : No Appearance

For R2 : Mr.P.Kandasamy

In CMA.No.946 of 2020

For Appellant : Mr.P.Kandasamy

For Respondents

For R1 : Mr.S.Udaya Kumar

For R2 : No Appearance

COMMON JUDGMENT

Both the insurance company and the claimants are the appellants in these appeals. By this common order, both the appeals are being disposed of.

2. C.M.A.No.348 of 2020 has been filed by the claimant for enhancement of compensation. The value of the appeal is Rs.43,000/- on the assumption that the Tribunal has awarded a sum of Rs.4,56,920/-.

3. C.M.A.No.946 of 2020 has been filed by the insurance company on the same assumption and it has questioned the compensation awarded by the Tribunal in the impugned Judgment and decree.

4. I have heard the learned counsel for the respective appellants and the respondents i.e., the claimants and the insurance company in the respective appeals. I have also perused the impugned Judgment and decree.

5. The Tribunal has wrongly computed the compensation as below:-

Head of Compensation	Amount of Compensation	Actual amount of compensation
Loss of Income and Disability	Rs.3,49,920/- * (9000x12x18x2/100)	Rs.38,880/- (Rs.9000x12x18x2/100)
Loss of Income for 5 months	Rs.45,000/- (9,000x5)	Rs.45,000/-



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Head of Compensation	Amount of Compensation	Actual amount of compensation
Pain and Suffering	Rs.40,000/-	Rs.40,000/-
Transport	Rs.10,000/-	Rs.10,000/-
Nourishment	Rs. 5,000/-	Rs. 5,000/-
Attender Charges	Rs.10,000/-	Rs.10,000/-
Total	Rs.4,56,920/-	Rs.1,48,880/-

* Calculation Error

6. Thus, there is a defect in drafting of the decree and the amounts mentioned in the impugned Judgment and decree dated 28.08.2019. The actual amount of compensation as per the impugned Judgment and decree should have been only Rs.1,48,880/-, whereas, the Tribunal has awarded a sum of Rs.4,56,920/- by making an erroneous calculations as detailed above.

7. Therefore, both the insurance company and the claimants ought to have approached the Tribunal for having the order corrected under Section 152 of C.P.C. Be that as it may, I am inclined to over look such mistakes in calculation committed by the Tribunal by considering the amount of compensation awarded in the impugned Judgment and decree as Rs.1,48,880/- to avoid further delay.

8. The question that requires to be answered in this appeal is whether the aforesaid amount of compensation of Rs.1,48,880/- is just or not for the injuries suffered by the appellants.

9. The nature of injuries suffered by the appellants are as follows:-

- (i) Left side facial bone fracture
- (ii) Multiple injury over lower jaw
- (iii) Injury over right shoulder
- (iv) Injury over neck
- (v) Injury over chest
- (vi) Injury over right arm
- (vii) Bleeding from ear
- (viii) Loss of three teeth

10. In my view, the Tribunal has by and large awarded a Just compensation under conventional heads. However, it has committed an error while awarding an amount of Rs.38,880/- only towards the above injuries. In my view, the amount awarded



towards injury for a sum of Rs.38,880/- is meagre. It therefore requires to be increased. For the injuries suffered for fracture of facial bone and multiple injury over lower jaw and towards loss of three teeth a sum of Rs.75,000/- can be awarded.

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11. In the result, the amount awarded by the Tribunal is re-computed as follows:-

Sl .N o.	Heads of Compensation	Amount awarded by the Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1.	Loss of Income and Disability	Rs.3,49,920/- (9000x12x18x2/100)	Rs.75,000/-	Reduced
2.	Loss of income for 5 months	Rs.45,000/-	Rs.45,000/-	Confirmed
3.	Pain & Sufferings	Rs.40,000/-	Rs.40,000/-	Confirmed
4.	Transportation Charges	Rs.10,000/-	Rs.10,000/-	Confirmed
5.	Extra Nourishment	Rs. 5,000/-	Rs. 5,000/-	Confirmed
6.	Attender Charges	Rs.10,000/-	Rs.10,000/-	Confirmed
Total		Rs.4,56,920/-	Rs.1,85,000/-	Reduced by Rs.2,71,920/-

12. The 2nd respondent/insurance company, is therefore directed to deposit the amount of compensation of Rs.1,85,000/- together with interest at 7.5% per annum from the date of filing of the claim petition till the date of such deposit within a period of six weeks from the date of receipt of the copy of this Judgment.

13. On such deposit being made by the 2nd respondent/insurance company, the appellant/claimant is permitted to withdraw the same together with interest accrued thereon, less the amount already withdrawn if any, by filing suitable application before the Tribunal.

14. The Tribunal has ordered pay and recovery to the 2nd respondent/insurance company. To that extent, the impugned Judgment and decree passed by the Tribunal is confirmed. The appeal filed by the appellant/claimant in C.M.A.No.348 of 2020



is partly allowed while in C.M.A.No.946 of 2020 filed by the Insurance Company is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(TNMCC)

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Sub Assistant Registrar

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To:

1. The Motor Accidents Claims Tribunal,
Principal Subordinate Court, Vridhachalam.
2. The Section Officer,
Vernaular Section,
Madras High Court.

+2cc to Mr.S.Udayakumar, Advocate, S.R.No.22945 & 22963

+2cc to Mr.P.Kandasamy, Advocate, S.R.No.23284 & 23285

C.M.A.Nos.348 & 946 of 2020
and

C.M.P.No.5913 of 2020

SJ(CO)
CB(12/11/2021)