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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.NO.3959 OF 2019

AND

C.M.P.NO.22429 OF 2019

United India Insurance Co.Ltd,
No.22 B, P.R.Sundaram Iyer Street,
Dharmapuri - 636 701.

...Appellant/
2nd Respondent

Vs.

1.Sakthivel

...1st Respondent/
Petitioner

2.P.Eswaran

...2nd Respondent/
1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the fair and decreetal order dated 11.08.2018 passed in M.C.O.P.No.663 of 2017 by the Motor Accident Claim Tribunal, (Special District Judge, Dharmapuri).

For Appellant	: Mr.A.Dhiraviyanathan
For Respondents	: No Appearance for R1 (R2 set exparte before the Tribunal)

JUDGMENT

Though Court notice has been served on the contesting Respondent No.1. There is no representation on behalf of the contesting respondent namely the 1st respondent. The case was on 20.04.2019 and thereafter again on 17.08.2020 after the lockdown was partially released. Today also there is no representation on behalf of the respondent. Therefore, this appeal was taken up for final hearing. By the impugned judgment and decree, the Tribunal has awarded Rs.5,00,100/- as compensation under the following heads:-



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Compensation for future loss of income	Rs.2,49,600/-
Pain and suffering	Rs. 30,000/-
Extra Nourishment	Rs. 20,000/-
Attender charges	Rs. 10,000/-
Transport charges	Rs. 3,000/-
Loss of amenities	Rs. 30,000/-
Medical expenses	Rs.1,22,000/-
Physiotherapy expenses	Rs. 10,500/-
Future Medical expenses	Rs. 25,000/-
Total	Rs.5,00,100/-

2.The appellant/Insurance Company in this appeal has challenged the compensation awarded by the Tribunal for a sum of Rs.2,49,600/- to the first respondent/claimant towards Future Loss of income.

3.It is submitted that the Tribunal ought not to have adopted multiplier as neither the injuries have resulted in a permanent disability nor partial permanent disability and therefore the Tribunal ought to have awarded compensation by only towards injury and towards loss of income during treatment and recuperation due to the injury.

4.I have considered the evidence on record. Ex.P.15 indicates that the first respondent had following injury namely 'Grade I Open Communitated Fracture of both bones at proximal third level with impending compartment Syndrome and Blisters in the right leg'.

5.Ex.P.15 disability certificate assesses 20% permanent disability. There is no disclosure of functional disability due to the injury, I am therefore inclined to award compensation on percentage basis. Accodingly the amount of Rs.2,49,600/- awarded by the Tribunal is to be re-computed at Rs.5000 per percent. The Tribunal has considered a notional income of the first respondent at Rs.6,500/-. The 1st respondent is a Junior Training Officer at Government Vocational Traning Center.



Therefore, it would be fair to conclude that the first respondent/claimant earned a sum of Rs.10,000 per month. Since the nature of injuries takes longer time, I am inclined to award a further sum towards loss of income of the first respondent for a period of six months at Rs.10,000 per month. Therefore, amount of Rs.60,000/- is awarded towards loss of income for a period of six months during the period of treatment and recuperation. Considering the nature of injury, a further sum of Rs.25,000/- is awarded towards pain and suffering. Accordingly, a compensation awarded by the Tribunal is re-quantified as follows:-

Particulars	Rs.
Loss of income for 6 months at Monthly Income of Rs.10,000	Rs. 60,000/-
Towards injury 20% x 5000	Rs.1,00,000/-
Pain and suffering	Rs. 50,000/-
Extra nourishment	Rs. 20,000/-
Attender Charges	Rs. 10,000/-
Transport Expenses	Rs. 3,000/-
Loss of amenities	Rs. 30,000/-
Medical expenses	Rs.1,22,000/-
Physiotherapy expenses	Rs. 10,500/-
Future Medical Expenses	Rs. 25,000/-
Total	Rs.4,30,500/-

6.The appellant/Insurance Company is therefore directed to deposit modified compensation of Rs.4,30,500/- of compensation 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.

7.On such deposit being made by the appellant/Insurance Company, the 1st respondent/1st 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.



8. Accordingly, this appeal stands partly allowed. No costs.
Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To:

1. The Motor Accident Claim Tribunal,
(Special District Judge, Dharmapuri).
2. The Section Officer,
V.R. Section,
Madras High Court.

C.M.A.No.3959 of 2019
and
C.M.P.No.22429 of 2019

GMI (CO)
PM/26/10/2021