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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1282 of 2021

R.Palanisamy

...Appellant / Petitioner

Vs.

1.K.Alliammal

2.The United India Insurance Company Limited,
CB Hub, 1st Floor,
No.104-A, Peramanur Main Road,
Peramanur, Salem - 636 007.

...Respondents / Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the fair and decreetal order dated 11.06.2019 made in M.C.O.P.No.2434 of 2016, on the file of the Motor Accidents Claims Tribunal/Special Subordinate Judge No.2, Salem.

For Appellant : Mr.A.Sathishkumar

For Respondents : M/s.I.Malar for R2

JUDGMENT

The claimant is the appellant in this appeal. The claimant has filed this appeal for enhancement of compensation awarded by the Motor Accidents Claims Tribunal (Additional District Judge, Salem) vide its judgment and decree dated 11.06.2019 in M.C.O.P.No.2434 of 2016.

2.By the impugned Judgment and decree, the Tribunal has awarded compensation under the following heads:-

Loss of Permanent disability (7,500x12+(7500X40/100) x15x11.66/100	Rs.2,20,374.00
Towards Pain and suffering	Rs.20,000.00
Loss of amenities	Rs.20,000.00
Medical bills (as per Ex.P.8)	Rs.5,13,686.00



- (ii) He has limp while walking
- (iii) He has pain and deformity at the fracture site.

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8. Considering the above coupled with the fact that the appellant is a manual labour, I am inclined to hold functional disability of the appellant at 20%. The Tribunal has awarded the aforesaid compensation by considering a notional income of Rs.7,500/-. There is no dispute that the appellant was a mesthri. The accident is of the year 2016. Considering the same, it would be reasonable to assume that the appellant would have earned a sum of Rs.10,000/- per month. Since the appellant was hospitalized for period of 13 days, this Court is inclined to award a sum of Rs.7,500/- towards attender charges. Therefore, the compensation awarded by the Tribunal are modified as follows:-

Loss of Permanent disability (10,000x12+(10,000X40/100) x15x20/100	Rs.3,72,000.00
Towards Pain and suffering	Rs.20,000.00
Loss of amenities	Rs.20,000.00
Medical bills (as per Ex.P.8)	Rs.5,13,686.00
Transport expenses	Rs.10,000.00
Extra Nourishment charges	Rs.10,000.00
Attendant charges	Rs.7,500.00
Loss of clothes	Rs.500.00
Total	Rs.9,53,686.00

9. The 2nd respondent/Insurance Company is therefore directed to deposit the enhanced amount of compensation of Rs.9,53,686.00/-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 eight weeks from the date of receipt of a copy of this Judgment.

10. On such deposit being made by the 2nd respondent/Insurance Company, the appellant/claimant is permitted to withdraw his share together with interest accrued thereon, less any amount already withdrawn, by filing suitable application before the Tribunal.



11. This Civil Miscellaneous Appeal stands Partly Allowed with the above observations. No costs.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:

The Motor Accidents Claims Tribunal,
Special Subordinate Judge No.2,
Salem

+2ccs to Mr.A.Sathish Kumar, Advocate, S.R.No.23946

C.M.A.No.1282 of 2021

MG(CO)
RVM(08/10/2021)