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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.882 of 2020

B.Ramesh,
S/o.N.T.Balasubramaniam

...Appellant / Claimant

Vs.

1.V.Nishokkumar
S/o.Venkatesan

2.A.Sivakumar,
S/o.Arthanari

3.The United India Insurance Company Ltd.,
Bhavani Branch,
Having Office at:
No.53/4, Old Bus Stand Road,
TVR Corner Building,
Perundurai, Perundurai Taluk,
Erode District.

...Respondents / Respondents

(1st & 2nd respondents remained exparte before
the Tribunal, hence notice may be dispensed)

Civil Miscellaneous Appeal filed under Section 173 of
Motor Vehicles Act, 1988 against the Judgment and Decree dated
25.09.2019 made in M.C.O.P.No.163 of 2016, on the file of the
Motor Accidents Claims Tribunal/Sub Judge, Perundurai.

For Appellant	:	Mr.M.Guruprasad
For R1 & R2	:	Exparte
For R3	:	Mr.D.Bhaskaran

JUDGMENT

The claimant is the appellant in this appeal and has
filed this appeal for enhancement of compensation awarded by the



Motor Accidents Claims Tribunal, Sub Judge, Perundurai in
M.C.O.P.No.163 of 2016.

2. By the impugned Judgment and decree, the Tribunal has awarded a sum of Rs.11,62,244/- to the appellant/claimant as compensation payable by the 3rd respondent/Insurance Company.

3. The Tribunal has awarded the aforesaid compensation to the appellant/claimant under the following heads:-

Heads of Compensation	Amount awarded by the Tribunal
Temporary Disability at 39%	Rs.1,17,000/-
Loss of Earning during treatment for a period of 7 months	Rs.45,500/-
Transportation Charges	Rs.10,000/-
Pain and Suffering (45 days)	Rs.50,000/-
Extra Nourishment	Rs.20,000/-
Medical Bills	Rs.9,19,244/-
Total	Rs.11,62,244/-

4. The case of the appellant/claimant is that the appellant/claimant was hospitalized for a period of 7 months and had undergone multiple surgeries on his skull and was fixed with artificial implants in clavicle bone.

5. On the other hand, the learned counsel for the 3rd respondent/insurance company submits that Ex.P.6-Discharge Summary filed by the appellant/claimant shows that the appellant/claimant has no permanent disability and/or functional disability. Hence, he submitted that the Tribunal awarded just compensation. So, question of adopting multiplier did not arise. He further submitted that the impugned Judgment and decree passed by the Tribunal is well-reasoned and requires no interference. Hence, he prays for dismissal of this appeal.

6. Heard the learned counsel for the appellant and the 3rd respondent. I have perused the impugned Judgment and decree and the exhibits marked before the Tribunal.



7. The disability has been assessed in EX.C1-Disability Certificate issued by the Medical Board, Government Head Quarters Hospital, Erode has concluded that there was no permanent disability. At the same time, it has concluded 39% as temporary disability.

8. Be that as it may, the nature of injuries suffered by the appellant/claimant are as follows:-

(i) Right Fronto Temporoparietal Acute Subdural Hemorrhage with right temporal burst lobe and midline shift to left.

(ii) Post left temporoparietal acute EDH

(iii) Left Zygomatico maxillary complex fracture/left fronto temporal bone fracture

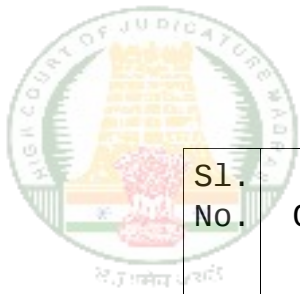
(iv) Fracture left clavicle/fracture left side ribs 2-7th.

9. The Tribunal has not awarded any amount towards Attender charges and Loss of Amenities. Therefore, this court is inclined to award a sum of Rs.30,000/- towards attender charges and Rs.25,000/- towards loss of amenities.

10. Further, the Tribunal has fixed the notional income of the claimant as Rs.6,500/- per month and awarded a sum of Rs.45,500/- (Rs.6,500 x 7 = Rs.45,500/-) towards loss of earning during treatment for a period of seven months. Court is therefore inclined to grant a sum of Rs.87,500/- towards monthly income of the appellant/claimant for a period of seven months. i.e., Rs.12,500/- per month.

11. Considering the nature of injuries suffered by the appellant/claimant, I am inclined to partially enhance the compensation as follows:-

Sl. No.	Heads of Compensation	Amount Awarded by the Tribunal	Amount awarded by this Court	Award confirmed or enhanced or reduced or granted or set aside
1.	Temporary disability at 39%	Rs.1,17,000/-	Rs.1,17,000/-	Confirmed



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Sl. No.	Heads of Compensation	Amount Awarded by the Tribunal	Amount awarded by this Court	Award confirmed or enhanced or reduced or granted or set aside
2.	Loss of Earning	Rs.45,500/- (Rs.6,500/-x7)	Rs.87,500/- (Rs.12,500x7)	Enhanced
3.	Transportation Charges	Rs.10,000/-	Rs.15,000/-	Enhanced
4.	Pain and Sufferings	Rs.50,000/-	Rs.50,000/-	Confirmed
5.	Extra Nourishment	Rs.20,000/-	Rs.30,000/-	Enhanced
6.	Medical Expenses	Rs.9,19,744/-	Rs.9,19,744/-	Confirmed
7.	Loss of Amenities	----	Rs.25,000/-	Granted
8.	Attender Charges	----	Rs.30,000/-	Granted
	Total	Rs.11,62,244/-	Rs.12,74,244/-	Enhanced by Rs.1,12,000/-

12. The 3rd respondent/insurance company is therefore directed to deposit the compensation of Rs.12,74,244/- 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.

13. On such deposit being made by the 3rd respondent/insurance company, the appellant/claimant is permitted to withdraw his respective share in the same proportion as was ordered by the Tribunal, together with interest accrued thereon, less the amount already withdrawn if any, by filing suitable application before the Tribunal.



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14. This Civil Miscellaneous Appeal is partly allowed with the above observations and directions. No costs.

Sd/-
Deputy Registrar (AD-II)

// True Copy //

Sub Assistant Registrar

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To:

The Motor Accidents Claims Tribunal,
Sub Judge,
Perundurai.

Copy To

The Section Officer,
Vernacular Section,
Madras High Court.

+1cc to Mr.M.Guru Prasad, Advocate SR.No.26421

C.M.A.No.882 of 2020

SSI(CO)
RVM(21/10/2021)