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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1237 of 2021

(Through Video Conferencing)

K.Abuthaker

... Appellant / Petitioner

Vs.

1.A.Siddick

2.The National Insurance Company Limited,
Selvanayaki complex,
Perundurai road, opposite to
District Collector office
Erode 638011.

... Respondents / Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 22.01.2020 passed in M.C.O.P.No.802 of 2017 on the file the Motor Accidents Claims Tribunal / Special District Court, Erode.

For Appellant : Mr.A.Sathishkumar

For Second Respondent : Mr.S.Arunkumar

J U D G M E N T

This appeal has been filed by the claimant for enhancement of compensation awarded by the Motor Accident Claims Tribunal (Special District Court), Erode, by its Judgment and Decree dated 22.01.2020 in M.C.O.P.No.802 of 2017.

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.3,24,203/- as compensation together with interest at 7.5% per annum from the date of claim petition till the date of deposit (except the default period if any) and



proportionate costs, to the appellant/claimant for the injuries suffered by him, under the following heads:-

Sl. No.	Heads	Amount
1	Medical Expenses	Rs.1,04,203/-
2	Extra Nourishment	Rs. 10,000/-
3	Pain and Sufferings	Rs. 50,000/-
4	25% Temporary Disability (3,000 x 25)	Rs. 75,000/-
5	Attendar Charges	Rs. 25,000/-
6	Loss of income for the period of six months (6 x 10,000)	Rs. 60,000/-
Total		Rs.3,24,203/-

3. The case of the appellant is that the Tribunal ought to have awarded a sum of Rs.1,25,000/- (25 x 5,000) on the disability assessed in Ex.P15 Disability Certificate. That apart, it is submitted that the Tribunal has not awarded any amount towards loss of amenities and has awarded only a sum of Rs.60,000/- towards loss of income for the period of six months. It is further submitted that the award amount deserves to be enhanced in as much as the Tribunal has failed to award just compensation.

4. Defending the impugned Judgment and Decree, the learned counsel for the second respondent Insurance Company submits that the Tribunal has awarded a higher amount of compensation even though the appellant has not established permanent disability. The learned counsel for the second respondent Insurance Company further submits that second respondent should have filed an appeal against the impugned award and since no appeal has been filed, the award amount may be confirmed.

5. I have heard the learned counsel for the appellant and the learned counsel for the second respondent. I have perused the evidence on record and the impugned Judgment and Decree.



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6. The Tribunal has noted down the injuries of the appellant as follows:-

- i. RTA with Right leg degloving injury with tendon injury
- ii. RTA with Post Traumatic raw area Right leg proxima 1/3rd anterior surface.

7. In view of above injuries, there is no scope for further enhancement of compensation under the facts and circumstances of the case. The Tribunal has awarded a just compensation by considering all the factors and the nature of injuries suffered by the appellant. Accordingly, the award amount is confirmed.

8. The second respondent Insurance Company is therefore directed to deposit a sum of Rs.3,24,203/- together with interest at 7.5% per annum from the date of claim petition till the date of deposit (except the default period if any) and proportionate costs as was awarded by the Tribunal, less any amount already deposited, within a period of six weeks from the date of receipt of a copy of this Judgment.

9. On such deposit, the appellant is permitted to withdraw the same together with interest, less any amount already withdrawn, by filing suitable applications before the Tribunal.

10. Accordingly, this Civil Miscellaneous Appeal is dismissed. No cost.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Special District Judge,
Motor Accidents Claims Tribunal,
Erode.



2.The Section Officer,
V.R. Section,
Madras High Court.

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+1cc to Mr.S.Arunkumar, Advocate, S.R.No.28211

+1cc to Mr.C.Thangaraju, Advocate, S.R.No.27964

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GPL(CO)

SB(20/09/2021)