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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.NO.3448 OF 2019

S.Sivaraj,
S/o.Sivanathan

... Appellant

Vs.

1. P.S.Pravinpaul
2. M.Jayaprakash
S/o.Manogaran
3. The New India Assurance Co.Ltd.,
Third Party Claims Office,
No.45, Moore Street, 5th Floor,
Chennai-1.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 20.04.2018 made in M.C.O.P.No.3991 of 2015 on the file of the IV Judge, Motor Accidents Claims Tribunal, Court of Small Causes, Chennai-104.

For Appellant : Mr.C.Richard Suresh Kumar

For Respondents :

For R1 and R2 : Exparte

For R3 : Ms.Saraswathi

JUDGMENT

The claimant is the appellant in this appeal. This appeal has been filed by the appellant/claimant for enhancement of compensation.

2. It is submitted that the Tribunal has awarded a sum of Rs.4,54,298/- which is meagre for the nature of injuries suffered by the appellant/claimant for the following injuries:-



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- (i) Right distal radius fracture
- (ii) Left scapula spine fracture
- (iii) Multiple injuries all over the body

3. The learned counsel for the appellant/claimant submits that the Tribunal has also awarded lesser amount on the other conventional heads of compensation.

4. Defending the impugned Judgment and decree, the learned counsel for the 3rd respondent/Insurance Company submits that the Tribunal has awarded just compensation and prays for dismissal of the appeal filed by the appellant/claimant.

5. Heard the learned counsel for the appellant and the 3rd respondent/Insurance Company.

6. The compensation awarded by the Tribunal to the appellant/claimant is partially enhanced by another sum of Rs.53,500/- on account of transportation, injury, loss of earning as detailed below:-

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.	Towards Transportation and nourishing Food	Rs.10,000/-	Rs. 20,000/-	Enhanced
2.	Attender Charges	Rs.3,500/-	Rs. 7,000/-	Enhanced
3.	Medical Expenses	Rs.2,65,798/-	Rs. 2,65,798/-	Confirmed
4.	Disability	Rs. 45,000/-	Rs. 60,000/-	Enhanced
5.	Loss of Earning	Rs. 50,000/-	Rs. 75,000/-	Enhanced



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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
6.	Damages for pain, suffering and trauma	Rs. 50,000/-	Rs. 50,000/-	Confirmed
7.	Loss of Amenities	Rs. 30,000/-	Rs. 30,000/-	Confirmed
	Total	Rs.4,54,298/- Rounded off to Rs.4,54,300/-	Rs.5,07,798 /- Rounded off to Rs.5,07,800 /-	Enhanced by Rs.53,500/-

7. The 3rd respondent/Insurance Company is therefore directed to deposit the enhanced amount of compensation of Rs.5,07,800/- after deducting amount already deposited by it 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 within a period of six weeks from the date of receipt of a copy of this Judgment.

8. On such deposit being made by the 3rd 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.

9. By the impugned order, the Tribunal has ordered pay and recovery of the award amount from the 1st respondent and 2nd respondents/owners of the vehicle, the same is hereby confirmed.

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

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

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To:

1. The IV Judge,
Motor Accidents Claims Tribunal,
Court of Small Causes, Chennai-104.

2. The Section Officer,
Vernacular Section,
Madras High Court.

+1cc to Mr.C.Richard Suresh Kumar, Advocate, S.R.No.26557

C.M.A.No.3448 of 2019

SPD(CO)
RLP(28/10/2021)