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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.3.2021

CORAM:

THE HON'BLE Mr.JUSTICE D.KRISHNAKUMAR

C.M.A No.3297 of 2014

K.Jayasankar

... Appellant / Petitioner

..Vs..

1. V.Narayanan

2. The Branch Manager

The National Insurance Company Ltd.,  
Branch Office, No.81-D, Chetty Street  
Tiruchengodu.

... Respondents/Respondents

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 01.11.2010 made in M.C.O.P.No.280 of 2007 on the file of the Chief Judicial Magistrate (Motor Accidents Claims Tribunal), Krishnagiri.

For Appellant : Mr.K.Prasanna

For Respondents : Mr.D.Baskaran for R2

R1-died

#### JUDGMENT

This instant appeal has been filed seeking for enhancement of compensation.

2. Brief facts of the claimant's case is as follows:

On 22.04.2005 at about 8.00 p.m, the claimant was working as a coolie to load clay in the Tractor bearing Registration No.TN-29-P-2832. At that time, the driver of the Tractor moved the same suddenly without any indication in a reckless and negligent manner, with an uncontrollable speed and dashed against the claimant who was just putting the clay from its front side and caused the accident and thereby, the claimant sustained grievous injuries and fracture on his left side pubic



rami other multiple injuries all over the body. The Claimant/Appellant filed petition before the Tribunal, claiming compensation of Rs.7,00,000/- for the Permanent disability sustained by the claimant/Appellant in a motor accident on 22.04.2005.

3. On the side of the claimant, three witnesses were examined as PW1 to PW3 and Ex.P1 to P6 were marked. On the side of the second respondent, R.W.1 was examined. However, no document was marked.

4. The Tribunal, based on the oral and documentary evidence, has held that the both the first and second respondents are liable to pay compensation to the claimant and awarded Rs.85,000/- as compensation along with interest at the rate of 7.5% p.a from the date of petition till realization. The total compensation awarded by the Tribunal under various heads are as follows:

| Heads                                              | Amount<br>in Rs.       |
|----------------------------------------------------|------------------------|
| Disablement                                        | 50,000<br>(25% x 2000) |
| Loss of Income                                     | 13,500                 |
| Pain and suffering                                 | 15,000                 |
| Transport, attender charges &<br>Extra Nourishment | 7,000                  |
| Total :                                            | 85,500/-               |

5. Heard the learned counsel appearing for the appellant/claimant and the learned counsel appearing for the second respondent/Insurance Company and perused the materials available on record.

6. According to the counsel appearing for the appellant, due to rash and negligent driving of the offending vehicle, the appellant sustained grievous injuries and fracture on his left side pubic rami other multiple injuries all over the body and therefore, disability of the appellant was assessed at 30% and the doctor who was examined as PW2 on the side of the appellant/claimant, deposed before the Tribunal that the claimant has suffered 30% disability. But the Tribunal has wrongly reduced to 25% without any contrary evidence and there



7. The learned counsel for the second respondent insurance company would submit that the Tribunal after analysing the evidence on record, has rightly awarded the compensation to the claimant and hence, the award passed by the Tribunal does not warrant any interference by this Court.

| Heads                                                   | Compensation<br>awarded by the<br>tribunal<br>Rs. | Compensation<br>enhanced/<br>Awarded by this<br>Court Rs. |
|---------------------------------------------------------|---------------------------------------------------|-----------------------------------------------------------|
| Disablement                                             | 50,000<br>(25 x 2000)                             | 60,000<br>(30 x 2000)                                     |
| Loss of Income                                          | 13,500                                            | 13,500                                                    |
| Pain and suffering                                      | 15,000                                            | 15,000                                                    |
| Transport, attender<br>charges and extra<br>nourishment | 7,000                                             | ...                                                       |
| Transport                                               | --                                                | 2,000                                                     |
| Attender Charges                                        | --                                                | 5,000                                                     |
| Extra Nourishment                                       | --                                                | 5,000                                                     |
| Loss of amenities                                       | ----                                              | 5,000                                                     |
| Total                                                   | 85,500/-                                          | 1,05,500/-                                                |

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compensation of Rs.1,05,500/- (Rupees one lakh five thousand and five hundred only) along with interest at the rate of 7.5% p.a. from the date of petition till realization.

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9. The second respondent/Insurance company is directed to deposit Rs.1,05,500/- along with interest at the rate of 7.5% p.a. from the date of petition till realization, within a period of six weeks from the date of receipt of copy of the judgment, after deducting the amount if any, already deposited before the tribunal. On such deposit being made by the respondent/Insurance Company, the appellant/claimant is entitled to withdraw the amount by filing appropriate application.

10. In fine, the Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Chief Judicial Magistrate  
(Motor Accidents Claims Tribunal),  
Krishnagiri.

2.The Branch Manager  
The National Insurance Company Ltd.,  
Branch Office, No.81-D, Chetty Street  
Tiruchengodu.

3.The Section Officer,  
V.R.Section, Madras High Court, Chennai-104.

+1cc to Mr.Mukand R. Pandian, Advocate, S.R.No.21172

C.M.A No.3297 of 2014

SR(CO)  
SB(12/10/2021)