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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.M.A.No.1935 of 2020

Chandran

... Appellant

Vs

1.Nesamani

2.Reliance General Insurance Co., Ltd.,
3rd Floor, 408, Perundurai Road,
Erode - 638 011.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree in MCOP No.441 of 2015, dated 12.03.2020 on the file of the Motor Accident Claims Tribunal / Subordinate Court, Sankari.

For Appellant : Mr.T.S.Arthanareeswaran

For Respondents : Mrs.C.Bhuvanasundari for R2

J U D G M E N T

The claimant who was favoured with an award of Rs.1,50,000/- for the injuries suffered by him, in the road accident that occurred on 08.06.2015 is on appeal, terming the compensation as meager.

2. According to the claimant, the accident occurred due to the negligence of the driver of the offending vehicle bearing Reg.No.TN-28-AI-0069, who came and dashed against the claimant when he was walking along road. As a result of the accident, the claimant suffered a fracture in the right ankle and contusion in right leg below the knee. He was operated upon for the fracture and he was admitted as inpatient for nearly 15 days between 8.6.2015 and 23.6.2015. It is also claimed that ORIF plates were fixed and he has difficulty in squatting and sitting cross legged. The claimant was referred to medical board and the medical board opined that due to the accident the claimant has suffered 15% permanent disability.



3. The Tribunal upon examination of evidence on record awarded the following amounts as compensation under various heads:

Heads	Award Amount
For Permanent disability (at Rs.3,000/- per percentage)	Rs.45,000/-
Medical Expenses (supported by bills)	Rs.75,000/-
Transportation	Rs.10,000/-
Extra nourishment	Rs.20,000/-
Damages to clothing	Rs.5,000/-
Total	Rs.1,55,000/-

4. Mr.T.S.Arthanareeswaran, learned counsel appearing for the appellant would vehemently contend that the compensation awarded is on the lower side. He would point out that the accident having taken place in the year 2016, the Tribunal should have awarded atleast Rs.5,000/- per percentage of disability following the judgment of M.Chinnathambi Vs. S.Deepa & anr. reported in 2020 (1) TNMAC 617. He would also point out that the Tribunal has not awarded any amount towards future medical expenses and pain and suffering.

5. Contending contra Mrs.C.Bhuvanasundari, learned counsel appearing for the Insurance Company would submit that considering the age of the claimant, the nature of the injuries suffered the award is reasonable and does not require any enhancement.

6. I have considered the rival submissions. The Tribunal has awarded Rs.3,000/- per percentage of disability. In M.Chinnathambi Vs. S.Deepa & anr. reported in 2020 (1) TNMAC 617, this court had awarded Rs.5,000/- per percentage of disability. Therefore, the award of Rs.45,000/- for the disability is enhanced to Rs.75,000/-.

7. It is seen from the award of the Tribunal that no amount has been granted towards pain and sufferings. The claimant was admitted as inpatient for atleast 15 days between 8.6.2015 and 28.6.2015 and he had undergone surgeries and implants were also made. Medical board opined that he has difficulty in sitting cross legged and squatting. In the light of the evidence, I am of the opinion that award of Rs.25,000/- towards pain and suffering would be just and reasonable.



8. The Tribunal has not awarded any amount for loss of income during the period of treatment and immediately thereafter. The Tribunal has assessed income at Rs.7,000/- per month. I am of the opinion that the claimant would have been incapacitated for atleast a period of 2 months. Therefore, a sum of Rs.14,000/- is awarded towards loss of income during the period of treatment and recovery.

9. The Tribunal has not awarded any amount towards future medical expenses. I find that from the discharge summary as well as report of the medical board, certain implants have been made, therefore, award of a sum of Rs.15,000/- towards future medical expenses would be just and reasonable.

10. Thus, the award of the Tribunal is modified as follows:-

Heads	Compensation awarded by the Tribunal	Compensation Enhanced/ awarded by this Court
Permanent disability	Rs.45,000/-	Rs.75,000/-
Medical Expenses (supported by bills)	Rs.75,000/-	Rs.75,000/-
Transportation	Rs.10,000/-	Rs.10,000/-
Extra nourishment	Rs.20,000/-	Rs.20,000/-
Damages to clothing	Rs.5,000/-	Rs.5,000/-
Loss of income	--	Rs.14,000/-
Pain and sufferings	--	Rs.25,000/-
Future medical expenses	--	Rs.15,000/-
Total	Rs.1,55,000/-	Rs.2,39,000/-

The total Rs.2,39,000/-, which is rounded off to Rs.2,40,000/-

11. Accordingly, this Civil Miscellaneous Appeal is partly allowed. The compensation granted by the Tribunal is enhanced to Rs.2,40,000/-. The Insurance Company is directed to deposit the enhanced compensation with appropriate interest as granted



by the Tribunal to the credit of MCOP No.441 of 2015 within a period of 8 weeks from the date of receipt of a copy of the judgment. No costs. The claimant is entitled to withdraw the entire amount. The Tribunal has awarded pay and recovery the same would apply to the enhanced award amount also.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

dsa

To

The Motor Accident Claims Tribunal,
Subordinate Judge, Sankari.

CMA No.1935 of 2020

srg 20/01/2022