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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.4390 of 2019

Karthick  
S/o.Madhaiyan

... Appellant/Petitioner

Vs.

1. Soundaram  
S/o.Palanisamy
2. The National Insurance Company Ltd.,  
Salem D.O-II, 11/289,  
Ramakrishna Road,  
Salem- 636 007.

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.No.7 of 2017 dated 04.02.2019 on the file of the Motor Accidents Claims Tribunal/Special Subordinate Judge No.II, Salem.

For Appellant : Mr.T.S.Arthanareeswaran  
For Respondents :  
For R1 : No Appearance  
For R2 : Mr.S.Vadivel

#### JUDGMENT

The claimant is the appellant in this appeal. The claimant has filed this appeal for enhancement of compensation.

2. By the impugned Judgment and decree dated 04.02.2019 the Tribunal has awarded a sum of Rs.2,51,433/- under the following heads:-

| Sl. No. | Heads of Compensation            | Amount Awarded by the Tribunal |
|---------|----------------------------------|--------------------------------|
| 1.      | Annual Income<br>(Rs.7,500 x 12) | Rs. 90,000/-                   |



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| Sl. No. | Heads of Compensation                                                                                          | Amount Awarded by the Tribunal |
|---------|----------------------------------------------------------------------------------------------------------------|--------------------------------|
| 2.      | Annual Income by adding 40% future prospects<br>(Rs.90,000x40%+Rs.90,000)                                      | Rs.1,26,000/-                  |
| 3.      | Compensation towards Loss of Income by applying the multiplier of 18 (Rs.1,26,000x18)                          | Rs.22,68,000/-                 |
| 4.      | In total income of Rs.22,68,000/-, the compensation towards Loss of future income for 4% functional disability | Rs. 90,720/-                   |
| 5.      | Pain & Sufferings                                                                                              | Rs. 10,000/-                   |
| 6.      | Loss of Amenities                                                                                              | Rs. 10,000/-                   |
| 7.      | Medical Expenses                                                                                               | Rs. 1,27,713/-                 |
| 8.      | Transport Charges                                                                                              | Rs. 2,500/-                    |
| 9.      | Extra Nourishment                                                                                              | Rs. 5,000/-                    |
| 10.     | Attender Charges                                                                                               | Rs. 5,000/-                    |
| 11.     | Damages to Clothes                                                                                             | Rs. 500/-                      |
|         | Total (4+5+6+7+8+9+10+11)                                                                                      | Rs. 2,51,433/-                 |

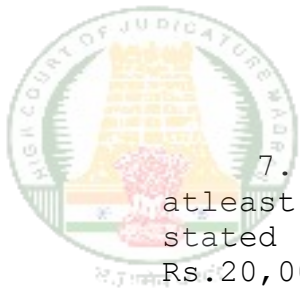
3. Heard the learned counsel for the appellant and the 2<sup>nd</sup> respondent.

4. The nature of injuries suffered by the appellant/claimant are as follows:-

- (i) Crush Injury of right foot with lisfrac subluxation
- (ii) Difficulty in Squating
- (iii) Pain at the right ankle, partial loss of extension of all toes and partial loss of sensation over dorsum of left foot.

5. In my view, the Tribunal ought not to have adopted multiplier for the nature of injuries suffered by the appellant/claimant. The nature of injuries is a temporary disability. Considering the nature of injury suffered by the appellant/claimant, he still deserves to be compensated.

6. The compensation as against permanent disability can be requantified to Rs.60,000/- at 12% by considering Rs.5000/- per percentage. The compensation awarded under the other heads appears to meagre. Considering the fact that the appellant/claimant would have been subjected to lot of pain, discomfort and inconveniences, there shall be some enhancement.



7. The appellant/claimant also would have out of work atleast for a period of four months. The appellant/claimant has stated that he was a bus conductor and earning a sum of Rs.20,000/- per month. However, there is no evidence to substantiate the same. Considering that the accident is of the year 2016, I am inclined to consider notional income of the appellant/claimant as Rs.15,000/- per month. Therefore, a sum of Rs.60,000/- is awarded towards loss of income for a period of four months during which the appellant would have been out of action.

8. Thus, the compensation awarded by the Tribunal is re-quantified as follows:-

| Heads and Calculation                                  | Amount                                           |
|--------------------------------------------------------|--------------------------------------------------|
| Loss of Income                                         | Rs. 60,000/-                                     |
| Towards permanent disability at 12%<br>(Rs.5000/- x12) | Rs. 60,000/-                                     |
| Pain and Sufferings                                    | Rs. 25,000/-                                     |
| Loss of Amenities                                      | Rs. 10,000/-                                     |
| Medical Expenses                                       | Rs. 1,27,713/-                                   |
| Transportation Charges                                 | Rs. 7,500/-                                      |
| Extra Nourishment                                      | Rs. 10,000/-                                     |
| Attender Charges                                       | Rs. 7,500/-                                      |
| Damages to Clothes                                     | Rs. 00/-                                         |
| Total                                                  | Rs.3,08,213/-<br>Rounded off to<br>Rs.3,08,200/- |

9. By the impugned Judgment and decree, the Tribunal has ordered pay and recovery of the award amount from the 1<sup>st</sup> respondent/owner of the vehicle, the same is hereby confirmed.

10. The 2<sup>nd</sup> respondent/Insurance Company is directed to deposit the above re-quantified amount of compensation of Rs.3,08,200/- 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.

11. On such deposit being made by the 2<sup>nd</sup> respondent/Insurance Company, the appellant/claimant is permitted to withdraw the same together with interest accrued thereon, less



any amount already withdrawn if any, by filing suitable application before the Tribunal.

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

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

arb

To:

The Motor Accidents Claims Tribunal,  
Special Subordinate Judge No.II,  
Salem.

Copy to:

The Section Officer,  
Vernacular Section,  
Madras High Court.

+1CC to Mr.S.Vadivel, Advocate, Sr.No.25550

C.M.A.No.4390 of 2019

GJ (CO)  
K.RK. (17.11.2021)