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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.4032 of 2019
and
C.M.P.No.22330 of 2019

Kamaraj
Vs. ... Appellant

1.Nayab Rasool CH,
D-No.1-72, Thurpu Chennampalle,
Varkuntapadu, Nellore,
Andhra Pradesh, Chennai - 524 004.
(The 1st respondent was set exparte in Trial Court)

2.The United India Insurance Co Ltd,
Motor Third Party Cell,
No.134, Silinghi Buildings,
Greams Road, Chennai - 600 006. ... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 08.04.2019 made in M.C.O.P.No.7013 of 2014 on the file of the Motor Accidents Claims Tribunal, Special Sub Judge No.1, Small Causes Court, Chennai.

For Appellant : Mr.C.Richard Suresh Kumar
For Respondents : R1 Exparte
M/s.R.Rathna Thara for R2

JUDGMENT

The claimant is the appellant in this appeal. In this appeal, the claimant has questioned the quantum of compensation awarded by the Tribunal by its judgment and decree dated 08.04.2019 in M.C.O.P.No.7013 of 2014.

2.By the impugned judgment and decree, the Tribunal has awarded a sum of Rs.1,62,700/- has detailed below:-

Disability	Rs. 60,000
Pain and sufferings	Rs. 20,000



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Transportation	Rs. 5,000
Medical expenses	Rs. 19,389
Extra Nourishment	Rs. 15,000
Attender charges	Rs.2,250.00
Loss of earning	Rs. 21,000
Loss of future prospectus	Rs. 20,000
Total	Rs.1,62,639
Rounded to	Rs.1,62,700

3.The learned counsel for the appellant has placed reliance on the decision of the Division Bench of this Court in ICICI Lombard General Insurance Co Ltd Vs. S.Satish @ Satish Kumar and another to state that the Tribunal ought to have awarded compensation by applying multiplier instead of percentage basis at Rs.3,000/- per percentage.

4.It is further submitted that the Tribunal has also awarded meagre amount towards other conventional heads and therefore prays for enhancement of compensation.

5.The appellant submits that the Tribunal has considered a notional income of Rs.7,000/- only per month for awarding loss of earning for three months. It is further submitted that the appellant was a Beautician/Hairstylist cum saloon worker.

6.Per contra, the learned counsel for the respondent/Insurance Company submits that the amount awarded by the Tribunal is reasonable and just compensation has been awarded and therefore prays for dismissal of the appeal. He further submits that the Tribunal has in fact awarded higher compensation than what the appellant deserved.

7.Heard the learned counsel for the appellant and the respondent.

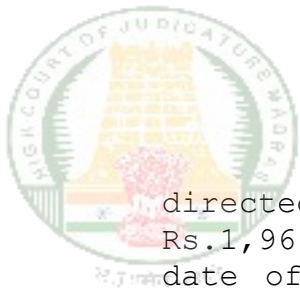
8.In my view, the Tribunal has by and large awarded a just compensation. It is not a case of a permanent disability or partial permanent disability. Therefore, the amount awarded towards disability/injury at Rs.60,000/- appears to be a just compensation. The only area where there can be enhancement of compensation is the compensation awarded towards Loss of earning and Loss of Future Prospects. The Tribunal has awarded a sum of Rs.41,000 (21,000 + 20,000).



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9. In my view, the appellant being a beautician/Hairstylist could not be said to have resumed working for at least for a period of six months from the date of accident. It would be also a fair to conclude that the appellant would have earned a sum of Rs.12,500 per month. Considering the same, the amount awarded by the Tribunal under Sl.Nos.7 and 8 amounting to Rs.41,000 is modified to Rs.75,000. Thus, there shall be an enhancement of Rs.34,000/- [75,000-41,000]. The compensation is thus enhanced as under:-

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.	Disability	Rs.60,000/-	Rs.60,000/-	Confirmed
2.	Pain and Sufferings	Rs.20,000/-	Rs.20,000/-	Confirmed
3.	Transportation	Rs. 5,000/-	Rs. 5,000/-	Confirmed
4.	Medical Expenses	Rs.19,389/-	Rs.19,389/-	Confirmed
5.	Extra Nourishment	Rs.15,000/-	Rs.15,000/-	Confirmed
6.	Attender Charges	Rs. 2,250/-	Rs.2,250/-	Confirmed
7.	Loss of Earnings and Loss of Future Prospectus (Rs.21,000 + 20,000)	Rs. 41,000/-	Rs.75,000/-	Enhanced
	Total	Rs.1,62,639/- Rounded off to Rs.1,62,700/-	Rs.1,96,639 /- Rounded off to Rs.1,96,700 /-	Enhanced by Rs.34,000/-



10.The 2nd respondent/Insurance Company is therefore directed to deposit the enhanced amount of compensation of Rs.1,96,700/- 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 eight weeks from the date of receipt of a copy of this Judgment.

11.On such deposit being made by the respondent/Insurance Company, the appellant/claimant is permitted to withdraw his share together with interest accrued thereon, less any amount already withdrawn in the same proportion as was ordered by the Tribunal.

12.This Civil Miscellaneous Appeal stands Partly Allowed with the above observations. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-I)

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Sub Assistant Registrar

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To:

- 1.The United India Insurance Co Ltd,
Motor Third Party Cell,
No.134, Silinghi Buildings,
Greems Road, Chennai - 600 006.
- 2.The Motor Accidents Claims Tribunal,
Special Sub Judge No.1, Small Causes Court, Chennai.
- 3.The Section Officer,
Vernacular Section,
Madras High Court.

C.M.A.No.4032 of 2019
and
C.M.P.No.22330 of 2019

JPL(CO)
GN(25/02/2022)