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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2021

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.M.A.No.378 of 2017

Gangaiamaran

...Appellant/Claimant

Vs

1.J.Dhakshinamurthy

2.The New India Assurance Company Ltd.,  
Divisional Office, No.1,  
C.S.I. Building, Officer's Line,  
Vellore.

(No relief sought against the first respondent.  
Hence notice may be dispensed with)

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 04.11.2016 made in M.C.O.P.No.311 of 2015 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Ranipet, Vellore District.

For Appellant : Mr.C.Prabakaran

For Respondents : R1-exparte  
Mrs.G.Sukumari for R2

#### J U D G M E N T

Heard the learned counsel for the appellant and the learned counsel for the respondent Insurance Company.

2.The appeal is filed by the claimant seeking enhancement of compensation.



3. The claimant/appellant herein met with road accident on 26.09.2015 on Chennai to Chittoor M.B.D. Road, Karai Junction, Ranipet, a car bearing Registration No.TN-23-AP-5568 dashed against him. In the said accident, the claimant has sustained Hairline fracture left ulna, avulsion fracture over lateral condyle of humerus and injuries in all over the body. The claimant is Assistant Manager in HDFC Bank, Ranipet. He has filed a claim petition seeking compensation of Rs.5,00,000/- for the said injuries. He was admitted in Scudder Memorial Hospital, Ranipet and advised rest for one month.

4. The Insurance Company has filed counter stating that the driver of the offending car had no valid driving license and the accident occurred only due to the negligence of the claimant, who was riding a motor cycle at that time accidentally and negligently fell on the car.

5. The Tribunal on considering the disability certificate given by P.W.3, Dr.R.Riaz Ahmed and nature of injury, awarded a sum of Rs.77,500/- assessing the disability at 20%.

6. Learned counsel appearing for the appellant being aggrieved that the Tribunal ought to have awarded more compensation under the head permanent disability, contended that the reduction of disability from 30% to 20% is erroneous. He also submitted that no compensation was granted for attender charges.

7. Per contra, learned counsel appearing for the Insurance Company submitted that the fracture injury sustained by the claimant is of very minor in nature on the left shoulder, which was united subsequent to the treatment and therefore, the Tribunal has rightly assessed the disability at 20% and fairly awarded a sum of Rs.77,500/-. Regarding the attender charges, the learned counsel submitted that there is no evidence that he has incurred any expenses towards attender charges.

8. On considering the rival submissions, this Court finds that the award of compensation under the head disability is fair and just and no enhancement is required. However, this Court awards Rs.10,000/- under the head Attender Charges. Accordingly, the award of the Tribunal is enhanced from Rs.77,500/- to Rs.87,500/- with 7.5% interest from the date of filing the petition till the date of deposit of compensation. The Insurance Company is directed to deposit the award amount within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the same on appropriate application.



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9. Accordingly, the Civil Miscellaneous Appeal is partly allowed. No order as to costs.

Sd/-  
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

vri

To

The Motor Accidents Claims Tribunal  
Subordinate Court, Ranipet, Vellore District.

Copy To

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

+1cc to M/s.C.Prabakaran, Advocate, vide S.R.No.3684

CMA NO.378 OF 2017

SSV(CO)  
RLP(03/09/2021)