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C.M.A.No.3035 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

C.M.A.No.3035 of 2005

P.Kumar @ Anandakumar

... Appellant

vs.

1.B.Saibeeran

2.S.Kachi Kussain

3.The Manager,

National Insurance Co-Ltd.,

Branch Office, 78, T.V.S. Street,

Erode-1.

4.R.Ramesh

5.A.Anbalagan

6.The New India Assurance Co-Ltd.,

Parimalan Complex,

11, EVN Road, Erode.

... Respondents

(Notice to the respondents 1,4 to 6 not necessary in this C.M.A)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree dated 31.03.2005 made in M.C.O.P.No.263 of 2002 on the file of the Motor Accident Claims Tribunal/ Principal Sub-Court, Erode.



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For Appellant : Mr.N.Manokaran

For Respondents : Mr.D.Bhaskaran [R3]
R2 – Served – No Appearance
R1, R4 to R6 – Given up]

JUDGMENT

The claimant has filed the above appeal seeking an enhancement of the award granted by the Motor Accident Claims Tribunal, Principal Sub-Court, Erode in M.C.O.P.No.263 of 2002.

2. The said accident had taken place on 25.08.2001. The Tribunal has granted a total compensation of a sum of Rs.95,000/-.

3. The claimant had suffered injuries in a road accident on the said date and on account of the injuries sustained by him there is a shortening of the right leg by 4 inches. The learned counsel for the appellant/claimant would therefore submit that on considering the injuries and the shortening of the leg, the Tribunal ought to have adopted a multiplier method and granted compensation. That apart, compensation under the head of pain and suffering and other heads are on the lower side which has to be enhanced.



4. However, the learned counsel appearing for the 3rd respondent /

Insurance Company would submit that the accident had taken place in the year 2001, at that time, the multiplier method and percentage method had not been adopted. He would further submit that the Tribunal has assessed disability and granted the compensation at the relevant period of time.

5. Admittedly, the claimant has suffered shortening of the leg on account of the accident for which only a sum of Rs.35,000/- has been granted, the same is increased to Rs.1,00,000/-. Consequently, the compensation granted under the head of loss of earning capacity is deleted. The Tribunal has granted adequate amounts under the head of Medical Expenses and Pain and Sufferings and therefore, the said figures remains unaltered. The claimant would have been unable to work atleast for a period of three months, only a sum of Rs.10,000/- was granted under this head, the same is increased to Rs.20,000/-. Therefore, the Compensation awarded by the Tribunal is reworked as below:



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<i>S.No.</i>	<i>Description</i>	<i>Amount awarded by Tribunal</i>	<i>Amount awarded by this Court</i>	<i>Award confirmed or enhanced or granted or reduced</i>
1	Pain and Sufferings	Rs. 20,000/-	Rs. 20,000/-	Confirmed
2	Permanent Disability	Rs. 35,000/-	Rs.1,00,000/-	Enhanced
3	Loss of Income	Rs. 10,000/-	Rs. 20,000/-	Confirmed
4	Loss of earning capacity	Rs. 20,000/-	Nil	Rejected
5	Medical Expenses	Rs.10,000/-	Rs. 10,000/-	Confirmed
	TOTAL	Rs.95,000/-	Rs.1,50,000/-	

6. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation of Rs.95,000/- awarded by the Tribunal is hereby Enhanced to a sum of **Rs.1,50,000/-**. Therefore, the respondents 1 to 3 are directed to deposit jointly or severally the enhanced amount of **Rs.1,50,000/-** to the credit of M.C.O.P.No.263 of 2002 on the file of the Motor Accident Claims Tribunal / Principal Sub-Court, Erode, together with interest @ 9% per annum from the date of claim petition till the date of deposit and costs, less, the amount, if any already deposited, within a period of four weeks from the date of receipt of a copy of this Judgement.



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On such deposit being made, the claimant is permitted to withdraw the amount now determined by this Court, as apportioned by the Tribunal, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal. The claimant is directed to pay the Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time as the certified copy showing proof of payment of Court fee has been produced by the claimant. No costs.

31.10.2022

Index : Yes/No
Speaking / Non-speaking order
ssn

To:

- 1.The Motor Accident Claims Tribunal,
Principal Sub-Court,
Erode.
- 2.The Section Officer,
V.R.Section, High Court of Madras,
Chennai.



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P.T.ASHA, J.,

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