



Review Application No.117 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2022

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

Review Application No. 117 of 2019

in

C.M.A. No.31 of 2006

The National Insurance Company Limited
Divisional Office,
66, Perundurai Road,
Erode 638 011

... Petitioner

Vs.

1. Tamil Selvan
2. S. Thirumalai Rajan

... Respondents

Prayer: Review Application filed under Order 47 Rule 1 and 2 r/w Section 114 CPC against the decree and judgment passed by this Hon'ble Court in C.M.A. No.31 of 2006 dated 22.11.2018 against the judgment and decree passed in M.C.O.P. No.515 of 2003 ated 06.10.2004 on the file of the Motor Accident Claim Tribunal (I Additional Subordinate Judge), Erode.

For Petitioner : Ms. N.B. Surekha

For Respondents : Ms. J. Prithvi

ORDER

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The present Review Application has been filed by the National Insurance Co. Ltd., Erode (respondent in CMA No.31/2006 on the file of this Court).

2. The claimant (first respondent herein) sustained injuries in a road accident on 01.01.2003 and lost his left eye. The doctors had assessed his disability as 65%. Not being satisfied with the award amount of Rs.1,55,000/- passed by the Tribunal, the claimant filed the appeal in CMA No.31/2006 before this Court. This Court, on 22.11.2018, enhanced the award amount to Rs.15,34,800/-.

3. Ms. N.B. Surekha, learned counsel for the petitioner contended that while calculating the permanent disability, this Court, without taking into account 65% disability assessed by the doctors, had wrongly awarded a sum of Rs.13,60,800/- and that even according to the petitioner, he was earning a sum of Rs.2,500/- per month.

4. Ms.J. Prithvi, learned counsel for the respondent fairly



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conceded that there is an error while calculating the award amount by this Court. In the circumstances, the monthly income of the victim is fixed at Rs.2,500/- and since the claimant had lost his left eye, multiplier method is adopted. The age of the claimant is 22 years on the date of accident and therefore, the proper multiplier to be adopted in the instant case is 18.

Calculation:

Notional Income = Rs.2,500/-

40% Future Prospects = Rs.1,000/-

Total = Rs.2,500/- + Rs.1,000/- = Rs.3,500/-

Multiplier Method:

= Rs.3,500/- * 12 * Multiplier 18 * 65%

= Rs.4,91,400/-

5. Since there is an apparent error on the face of the record, a sum of Rs.6,95,400/- is awarded as compensation to the claimant as detailed hereunder.



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<i>S. Nos</i>	<i>Heads</i>	<i>Amount granted (Rs.)</i>
1.	Loss of Income	9,000/-
2.	Transport Expenses	10,000/-
3.	Medical expenses	45,000/-
4.	Pain and sufferings	1,00,000/-
5.	Permanent disability (2500+40% $\times$ 18x12x65%)	4,91,400/-
6.	Extra nourishment	20,000/-
7.	Attender charges	20,000/-
	Total	6,95,400/-

6. Counsel for the respondent in the Review Application contended that she has already paid the court fee for the enhanced compensation amount in CMA No.31 of 2006 and the same may be returned to her.

7. In view of the above, this Review Application is disposed of with the following directions. No costs.

- 1) A sum of Rs.6,95,400/- is awarded to the respondent/claimant as compensation together with interest at 7.5% per annum from the date of filing of the claim petition till the date of deposit.



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2) The National Insurance Company, namely, the review applicant is directed to deposit the modified compensation amount now determined by this Court along with interest to the credit of M.C.O.P. No.515 of 2003 on the file of the I Additional Sub Judge (Motor Vehicle Accident Claims Tribunal, Erode), within a period of four weeks from the date of receipt of a copy of this order. The Review Applicant/Insurance Company is permitted to withdraw the excess amount, if any lying in the deposit to the credit of M.C.O.P. No.515 of 2003 on the file of the I Additional Sub Judge (Motor Vehicle Accident Claims Tribunal, Erode) if the entire award amount in CMA No.31 of 2006 has already been deposited by them.

3) On such deposit, the respondent/claimant is permitted to withdraw the modified award amount along with interest and costs, less the amount if any, already withdrawn.



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4) Registry is directed to retain the court fee proportionate to the award amount of Rs.6,95,400/- and return the balance amount to the respondent/claimant herein.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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R. HEMALATHA,J.

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