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C.M.A.No.1768 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

C.M.A.No.1768 of 2020

and

C.M.P.No.12978 of 2020

Royal Sundaram Alliance Insurance Co. Ltd.,
No.4-A, 4th Floor,
Thirumalai Towers,
No.723, Avinashi Road,
Coimbatore District.

... Appellant

VS.

1.Senthilkumar

2.P.Unnikrishnan

3.Marshal Flower Engineers
India Pvt. Ltd.,
No.69/1, AVG Layout,
SIDCO Industrial Estate Post,
Coimbatore-641 021.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree dated 25.01.2019 passed in M.C.O.P.No.1643 of 2015 on the file of the Court of the Motor Accident Claims Tribunal, Special Subordinate Judge, Coimbatore.



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For Appellant : Mr.G.Vasudevan
For Respondents : Mr.Govind Chandrasekar [R1]
R2 & R3 – Served – No Appearance

JUDGMENT

The Insurance Company has filed the above appeal challenging the award passed by the Motor Accident Claims Tribunal, Special Subordinate Judge, Coimbatore in M.C.O.P.No.1643 of 2015, on the ground of quantum.

2. Though a ground has been taken that the 1st respondent/claimant was a gratuitous passenger, however, arguments were not advanced, since additional premium had been paid by the insured to cover the liability of the fare paying passengers other than employees.

3. The Insurance Company is aggrieved by the fact that a sum of Rs.3,00,000/- and Rs.2,00,000/- have been awarded on the head of pain and sufferings and loss of amenities for the injuries sustained by the petitioner which is not permanent in nature and further, the petitioner had taken treatment as an inpatient only for 7 days. The 1st respondent/claimant had not even examined the Doctor who assessed his disability.



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4. Heard the learned counsel on either side and perused the materials on record.

5. As contended by the learned counsel for the appellant/Insurance Company, the amount awarded under the said two heads are rather on the higher side. However, a perusal of the contents of the Discharge Summary, Ex.P8 would indicate that the petitioner would have suffered considerable pain and sufferings for the injuries sustained by him and therefore, a sum of Rs.1,50,000/- is granted under this head. Therefore, amount granted under this head is reduced to Rs.1,50,000/-. Likewise, the sum of Rs.2,00,000/- awarded under the head of loss of amenities is consequently reduced to a sum of Rs.50,000/-. Therefore, the reduced compensation would be a sum of Rs.4,60,000/- and the award is reduced by a sum of Rs.3,00,000/-. Therefore, except for reducing the amount under the head of pain and sufferings and loss of amenities, all other aspects, the award of the Tribunal remains unaltered. 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	Compensation for grievous injury	Rs.1,75,000/-	Rs.1,75,000/-	Confirmed
2	Loss of Income	Rs. 60,000/-	Rs. 60,000/-	Confirmed
3	Pain and Sufferings	Rs.3,00,000/-	Rs.1,50,000/-	Reduced
4	Loss of amenities	Rs.2,00,000/-	Rs. 50,000/-	Reduced
5	Extra Nourishment	Rs. 10,000/-	Rs. 10,000/-	Confirmed
6	Transport	Rs. 10,000/-	Rs. 10,000/-	Confirmed
7	Damage to Clothing and Articles	Rs. 5,000/-	Rs. 5,000/-	Confirmed
	TOTAL	Rs.7,60,000/-	Rs.4,60,000/-	

6. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation of Rs.7,60,000/- awarded by the Tribunal is hereby reduced to a sum of **Rs.4,60,000/-**. Therefore, the Appellant / Insurance Company is directed to deposit the modified award amount now determined by this Court to the credit of M.C.O.P.No.1643 of 2015 on the file of the Motor Accident Claims Tribunal, the Special Subordinate Judge, Coimbatore, together with interest @ 7.5% per annum from the date of



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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. 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. No costs. Consequently, connected miscellaneous petition is closed.

19.10.2022

Index : Yes/No

Speaking / Non-speaking order
ssn

To:

1. The Motor Accident Claims Tribunal,
Special Subordinate Judge,
Coimbatore.
2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.



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P.T.ASHA, J.,

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